

1 CALIFORNIA HIGH-SPEED RAIL AUTHORITY

2 MONTHLY MEETING

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6 TRANSCRIPT OF PROCEEDINGS

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10 Sacramento City Hall

11 915 I Street, City Council Chambers

12 Sacramento, California 95814

13

14 Tuesday, September 11, 2012

15 9:08 a.m.

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1 A P P E A R A N C E S
23 BOARD MEMBERS
45 Mr. Dan Richard, Chairman
67 Mr. Tom Richards, Vice-Chair
89 Ms. Lynn Schenk, Vice-Chair
1011 Mr. Jim Hartnett
1213 Mr. Thomas Umberg
1415 STAFF
1617 Ms. Lisa Toof, Board Secretary
1819 Ms. Angela Reed, Interim Board Secretary
2021 ALSO PRESENT
2223 Mr. Jeff Morales, CEO
2425 Mr. Thomas Fellenz, Esq., Legal Counsel
2627 --o0o--
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3031
3233
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SACRAMENTO, CALIFORNIA, September 11, 2012

2 | 9:08 a.m.

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4

5 CHAIRMAN RICHARD: Why don't we start our
6 proceedings this morning.

7 Okay. This meeting of the California High-Speed
8 Rail Authority will be called to order.

9 | Please call the roll.

10 MS. TOOF: Vice-Chair Schenk.

11 MS. SCHENK: Here.

12 MS. TOOF: Vice-Chair Richards.

13 MR. RICHARDS: Here.

14 MS. TOOF: Mr. Umberg.

15 MR. UMBERG: Here.

16 MS. TOOF: Mr. Hartnett.

17 MR. HARTNETT: Here.

18 MS. TOOF: Chairman Richard.

19 CHAIRMAN RICHARD: Here.

MS. TOOF: Thank you.

21 CHAIRMAN RICHARD: Le

22 order of the proceedings this morning. We are going to
23 have closed session first.

24 We commence all of our meetings with the Pledge
25 of Allegiance, and we will do that now. We also want to

1 have a remembrance of our fallen Americans on, today,
2 9/11, but I'm going to defer that until we start our
3 open session, because I want members of the public to be
4 here for that.

5 So with that, let's commence with the Pledge of
6 allegiance. I've asked Mr. Umberg, who has served our
7 country in Afghanistan, to please lead us.

8

9 (Pledge of allegiance recited)

10

11 CHAIRMAN RICHARD: Thank you. At this
12 point, the board will enter into a closed session to
13 discuss matters as delineated on our agenda. I'm going
14 to anticipate, Mr. Fellenz, probably about one hour,
15 would you think, or less than that?

16 MR. FELLENZ: Yes, one hour.

17 CHAIRMAN RICHARD: Okay. So for members of
18 the public who are here or members of the public who are
19 watching the proceedings, that's our anticipated time to
20 reconvene this open public session.

21 So with that, we'll enter into closed session.

22

23 (Board entered into closed session.)

24

25 CHAIRMAN RICHARD: Okay. Good morning. The

1 board will -- I'm sorry. Good morning. The board will
2 now reconvene in open session. We have no items to
3 report from our closed session.

Ladies and gentlemen, before we move to the first item on our agenda, which is public comment, as we all know that today is September 11th and that is a date that has meaning that does not need to be explained to any American. We, of the board, believe it will be very appropriate that prior to commencing our proceedings today, if you will all join us in standing and observing a moment of silence for the fallen Americans on that day and the thousands who died afterwards. Thank you.

13

14 | (Moment of silence.)

15

16 CHAIRMAN RICHARD: Thank you. We'll begin
17 now with the public comment section of our agenda. As
18 we do in each case, we will take the comments in the
19 order in which they have been received. We do afford an
20 opportunity for public and -- well, elected officials to
21 go first but I do not see among the cards any such
22 persons this morning. Please correct me if I'm wrong --
23 or excuse me. That is not correct. Our first speaker
24 will be County Supervisor Richards Valle from Kings
25 County.

1 MR. VALLE: Good morning, Mr. Chair, good
2 morning members of the board. Mr. Chair, as you know in
3 Kings County right now, our Board of Supervisors,
4 they're in a public session right now. My members are
5 the guys meeting with the public, and my chair is empty
6 right now because, once again, I just find it necessary
7 to travel here to be here at your meeting to say very
8 simply that the plan for Kings County does not work.
9 And Mr. Chair, you've -- up until a couple of months
10 ago, you were coming and meeting with the board of
11 supervisors and the folks of Kings County, a regular
12 monthly meeting. You have seen and heard those concerns
13 from those folks, hundreds of them. So when I say that
14 "the plan does not work for Kings County," I don't feel
15 that I need to go into detail this morning, because
16 you're aware and on the record.

17 I have also read your latest letter to me and the
18 board stating your reasons for not coming the last
19 couple of months, and we haven't had that opportunity to
20 engage with you. More importantly, the folks of Kings
21 County haven't had the opportunity to engage with you, I
22 believe, the last two months. So I am here again on the
23 record, urge you to come back, look forward to seeing
24 you back. That is the best setting so far, Mr. Chair,
25 is those meetings with you there with us versus the

1 informational panel hearings that your staff comes down
2 to our communities and puts out. I haven't seen
3 anything positive coming out of those. I do go. I
4 listen to what concerns folks in the City of Corcoran
5 and Hanford have to say about these maps, these possible
6 alignments.

7 So again, in closing, look forward to seeing you
8 back in Kings County. Thank you for your time.

9 CHAIRMAN RICHARD: Thank you, Supervisor.
10 Let me just say, as I indicated in my letter, now that
11 the environmental documents have been issued, we're all
12 constrained by the formal requirements to comply with
13 the comment periods there, but I want to assure you and
14 your colleagues on the board as well as your
15 constituents that we are fully engaged in reviewing and
16 thinking about the issues in Kings County and along the
17 entire alignment. I certainly will be back in Kings
18 County. We will continue within the balance of what
19 we're allowed to do to work as proactively as we can
20 with you and your colleagues. And I know this is a long
21 trip for you, but I know your commitment to protecting
22 the citizens in your community, and I just want to
23 assure you that we will do everything that we can do
24 within the confines of our current environmental review
25 period. But please be assured that we would like to

1 continue to work as hard as we can to see if we can find
2 some way to find common ground.

3 MR. VALLE: Thank you, Mr. Chair.

4 CHAIRMAN RICHARD: Thank you, sir.

5 Okay. Going in order, again, I don't see any
6 other elected officials, so we'll go in the order in
7 which the comments were received. First, is Ms. Leeann
8 Eager from the -- Fresno County. Good morning.

9 MS. EAGER: Good morning. Welcome back and
10 congratulations on your award. You weren't here for us
11 to be able to say the accolades, but they were said.

12 First of all, I just want to tell you that
13 Supervisor Perea is not here today because his mother is
14 very, very ill, and he didn't feel comfortable leaving
15 her. He certainly wanted to remind you about the heavy
16 maintenance facility issues, and that's all on his mind.

17 I did want to talk to you a little bit about
18 what's going on in Fresno, and obviously, it's been very
19 busy. I think -- I want to thank you all for hiring
20 Mr. Padilla. He's been at every meeting, and I think we
21 have been speed dating. We have been seeing each other
22 everywhere, and one of our main issues is making sure
23 that our local folks get hired, and although that's
24 certainly for everybody in the Central Valley, that's on
25 the top of our list. We have been hearing about some --

1 getting our local companies and our local folks hired,
2 and we understand that you're working on those. We are
3 working on those also and making sure our small
4 businesses get certified.

5 I think there's been about five workshops in the
6 last sixty days, and we have a few more plans. One of
7 them, the City and the County are planning is hopefully
8 that will be a large one so that we can get our
9 businesses there. I have been getting phone calls from
10 local businesses saying that, you know, there are some
11 issues that we're hearing, that they're not qualified to
12 work on the project, and hopefully, you'll be able to
13 work on those, and I appreciate the fact that you
14 understand those issues and that you're working on those
15 for our businesses because we really do want to make
16 sure that what we have promised them all along on this
17 project, whether or not they are construction workers or
18 whether or not that, you know, the folks who put out the
19 signs, like the company that -- there is a place for
20 them and that they will be able to contract with whoever
21 gets hired.

22 So we appreciate your work, and we're working
23 hard on the other end

24 CHAIRMAN RICHARD: Thank you very much.

25 Our next speaker is Robert Allen. As Bob comes

1 to the podium, I'll point out that Mr. Allen was a long
2 time member of the board of BART system, and the Bay
3 Area Transit system, and unfortunately, before September
4 11th took on the terrible meaning that it now has, it
5 also was the date that BART opened its doors, forty
6 years ago today.

7 So, Mr. Allen, good morning.

8 MR. ALLEN: That's right, forty years of
9 wonderful service to the public.

10 The blended rail system that you plan is
11 dangerous. It means up to 43 grade crossings in
12 perpetuity. Problems are indicated on the handout. It
13 endangers Caltrain passengers on the station platforms.
14 It is costly. It is ineffective. It's unsafe for high
15 speed. It has poor and congested public access. I urge
16 you to stay clear of Caltrain, instead to upgrade and
17 grade separate the Amtrak route by a Medford from Santa
18 Clara north to a new west Oakland intermodal station
19 where BART crosses over the UP Amtrak line, that you
20 seek a five county JPA or BART to upgrade the
21 comprehensive 1957 Rapid Transit Commission's report to
22 the legislature and develop a balance tri-county plan
23 for record management. The plans will include the
24 Medford line, east rail as indicated above, a new west
25 Oakland intermodal station where BART crosses over the

1 UP, a revised plan for BART from Berryessa to Santa
2 Clara. Grade separate and converting the Caltrain to
3 BART for about 30 miles between Milbrae and Santa Clara.
4 25 miles at grade and five miles in a -- convert
5 Caltrain to San Francisco muni access line north into
6 Millbrae and -- I guess that's it. The others are all
7 in the handout that I gave to you.

8 CHAIRMAN RICHARD: Okay.

9 MR. ALLEN: Thank you.

10 CHAIRMAN RICHARD: Thank you, Mr. Allen.

11 The next card actually doesn't have a speaker's
12 name on it but I'm going to guess -- Mr. Dolan, is this
13 you, from Western State's Title. Welcome back.

14 MR. DOLAN: Thank you, Mr. Chairman, and
15 congratulations, again, for the awards you won in
16 Washington with transportation secretary and Mike Rossi.
17 We appreciate that you got that award.

18 I have four quick points to make today. I am
19 Daniel Dolan. I was one of a hundred and 73 people one
20 year ago that participated in a conference call
21 regarding the \$40 million RFP of right-of-way
22 acquisitions and appraisals. So I was excited to thank
23 Patricia Jones who were going to give a presentation on
24 Item Six only to find out that's been modified.

25 I wanted to also thank Jeff Morales, your

1 Executive Director, how important his presence was at
2 6:00 o'clock Thursday, July 5th when -- as I now
3 understand it from Mark McLoughlin's office -- that he
4 made sure that there was bipartisan support for drawing
5 for the purposes of the vote the next day. There was
6 the senate journal entry whereby high-speed rail wasn't
7 going to pursue that at that particular point in time an
8 exemption on CEQA. By him making that comment, at least
9 two democratic senators, I believe Joe Pereida and also
10 Senator Lois Wolk, were persuaded to vote in your favor,
11 and that was just enough to get the \$8 billion package
12 passed in the senate and to get your share of State
13 money. So that brings me up to an important reminder to
14 everyone here in this room, to vote on November 2nd --
15 or 6th -- Presidential election and the US congress
16 senate election is very important. And you need to do
17 everything you can to secure that federal \$3.3 billion,
18 by any means you can, before election day in case the
19 party that you hope is in power is not in power. One
20 quick thing here --

21 CHAIRMAN RICHARD: Sir, I would ask you to
22 finish quickly.

23 MR. DOLAN: I'll share with Mike Rossi and
24 Dan Richard, this map, an elegant design that I have for
25 a project that Governor Brown is interested in, will

1 also be a big step for you to build all of these Union
2 Pacific Railroad, cross sections, there might be a
3 possibility that some of those might be relaxed in your
4 favor, if you can support me on this project to the
5 Governor.

6 CHAIRMAN RICHARD: Okay. Thank you,
7 Mr. Dolan.

8 The next speaker is Jim Bigelow to be followed by
9 Diana LaCome.

10 MR. BIGELOW: Good morning. Jim Bigelow
11 with the Redwood City, San Mateo County Chamber, and I
12 want to present some positive things on the Caltrain.
13 Caltrain is just busting through 50,000 passengers a day
14 and growing, and that's a very positive sign. Your
15 board, the legislature, and the agencies to the MOU for
16 the blended system, recognize the benefit of taking the
17 first step for joint operation in the future on the San
18 Francisco peninsula with Caltrain and high-speed rail.
19 Next Tuesday, Caltrain will be hosting a meeting of all
20 the cities on Caltrain corridor with the idea that it
21 is, "How do we electrify Caltrain?" "How do we get
22 ready for the future opportunity to share the track with
23 high-speed rail?" That's a major thing, and some of the
24 cities will need to leave their baggage at the door and
25 think about building the high-speed and getting ready

1 and getting Caltrain electrified. So that's the first
2 step.

3 There's a lot of positive things, the studies of
4 the at-grade crossings is underway with the 2035
5 figures, and so there's a lot of positive things going
6 on, and in San Mateo County, we even have some cities
7 approaching our sales tax agency to start some grade
8 separation plan up in San Mateo, and as a result of
9 that, all the cities in San Mateo are going to get a
10 letter requesting their interest in grade separations,
11 which is above and beyond the one that they have
12 funding.

13 So thank you again, Chair Richard, for your
14 leadership and your extra hours. I know the board is
15 putting in some extra hours, and we all continue this
16 effort. Thank you.

17 CHAIRMAN RICHARD: Thank you. I know you
18 didn't mean to overlook Mr. Hartnett, who has put in a
19 lot of the hours on the Caltrain electrification.

20 Ms. LaCome, I am sorry that I have been --

21 MS. LACOME: That's okay. I'll catch you.

22 CHAIRMAN RICHARD: Anyway, welcome and good
23 morning.

24 MS. LACOME: Good morning, Chairman Richard,
25 authority board members, and CEO Morales. This morning,

1 I would like to comment on two agenda items, 7 and 8 and
2 other issues that I have previously brought to your
3 attention.

4 The first issue is Item 7. The High-Speed Rail
5 Conflict of Interest Policy, and I'm going to get right
6 to the point. The most serious and blatant issue to
7 bring to your attention is on page six, number two,
8 Failure to Comply, and I've given you all copies of
9 this, and it reads as follows: If the Authority
10 determines at its total discretion that a contractor has
11 failed to comply with this policy in any respect
12 including any failure to disclose an actual receipt or
13 potential conflict of interest, the Authority may do --
14 blah, blah, blah, blah -- if the contractor was or
15 should have been aware and failed to disclose the
16 conflict of interest prior to the award, the Authority
17 could do all of these things, all of them. If the
18 Authority cancels the contract as specified, they will
19 have no obligation or responsibility or liability to
20 reimburse all or parts of the costs incurred or --
21 incurred by a contractor and it goes on.

22 It seems that this organizational conflict of
23 interest is a hundred percent bias and in favor of the
24 high-speed rail. The tone of failure to comply and the
25 Authority's sole discretion is reflected throughout this

1 document.

2 Our members who reviewed this agenda item could
3 not locate one reference that contractors are entitled
4 to an appeal process. On the contrary, it goes
5 throughout the sole discretion throughout and it says at
6 one point that its -- the authority's decision is final
7 and binding and shall not be subject to appeal. To our
8 knowledge, contractors are still entitled to due process
9 in the State of California. I recommend that this item
10 be deferred to either the authority executive board or
11 the business council for review.

12 I have one more quick item.

13 CHAIRMAN RICHARD: All right. Go ahead.

14 MS. LACOME: On number eight, all we want to
15 say is that please include the 30 percent small business
16 goal first and foremost on your RFQ, and I have stated
17 all there -- all of the recommendations per each item --
18 page numbers and so on that we're making to this board
19 and there's a couple of other things but I will -- I
20 will submit that that's taken care of.

21 CHAIRMAN RICHARD: All right. Thank you,
22 Ms. LaCome. All right. We'll come back to those
23 questions during the consideration of those items.

24 Next is Richard Markuson followed by Paul Smart
25 and then David Schwagel.

1 MR. MARKUSON: Good morning, Mr. Chairman
2 and members, Mr. Morales. It's good to see you again,
3 sir.

4 I represent a number of contractor groups and
5 they listen with great interest to the folks in Fresno
6 talking about local participation. We're a little bit
7 concerned about the authority that goes to the executive
8 director under your agenda Item 9, and one of the
9 questions that I would have for you, sir, and the board
10 during discussion is whether the phrase all things --
11 "all that is necessary" includes the authority to
12 negotiate and execute a project labor agreement for
13 construction work on the project. As I'm sure you are
14 aware, project labor agreements are a very controversial
15 issue in -- for construction. I represent a variety of
16 construction contractor groups who are opposed to
17 project labor agreements. We think that they actually
18 work contrary to the purposes that have been mentioned
19 for local hire and sole business participation, and we
20 appreciate some clarity from the board as to if the
21 authority has plans for a project labor agreement, and
22 if that would be covered under this authority given to
23 the CEO. Thank you very much.

24 CHAIRMAN RICHARD: Thank you, sir.

25 Paul Smart followed by David Schwagel followed by

1 Jack Caswell.

2 MR. SMART: Good morning, members. My name
3 is Paul Smart. I'm a resident of Corcoran and Kings
4 County. I recently read your new Environmental Justice
5 Policy that was adopted, and under the principles and
6 rules section, something stuck out to me. It says, "to
7 avoid, minimize, and mitigate disproportionately high
8 human health and environmental effects including social
9 and economic effect on minority and low-income
10 populations." I believe whole-heartedly that Corcoran
11 embodies the entire spirit of that statement. The
12 corner of Whitney Avenue and Oaks is home to a community
13 of disabled person's complex. Many of these people are
14 on fixed incomes. They do not have the ability to
15 drive. High-speed rail coming through this area will
16 eliminate our Amtrak. You will effectively take away
17 the ability for many senior and disabled people to
18 travel for groceries and things like seeing their
19 families.

20 Corcoran's population is largely classified as
21 minority and low-income. As a matter of fact, according
22 to your own report, 80.8 percent minority. Removal of
23 any jobs in a community that is already low-income,
24 minority-based, and has an annual unemployment rate of
25 over 15 percent, shows a lack of consideration for that

1 community in regards to environmental justice.

2 The study includes inmates in part of our
3 population. We have more than 20,000 in our population
4 that includes people that are incarcerated. Our actual
5 citizen number is closer to 13,000. Now, those would
6 have dramatically changed the effects of the
7 environmental justice if those people, inmates, were not
8 included in that statement.

9 The displacements along with the increased noise
10 and visual impacts associated with the high-speed train
11 project could affect social interactions, community
12 cohesion, and the perceived quality of life in Corcoran.
13 This effect would be of moderate to substantial
14 intensity under NEVA. If you're own report shows
15 how devastating this project is to Corcoran, stop. Find
16 another place to put it that won't be so detrimental.
17 This is where I have my home. Thank you for your time
18 and consideration.

19 CHAIRMAN RICHARD: Thank you, Mr. Smart.

20 David Schwagel followed by Jack Caswell, and then
21 Nicole Goehring.

22 MR. SCHWAGEL: Good morning, fellow leaders.
23 David Schwagel, USHSR, the national's only nonprofit
24 advocating group for a nationwide high-speed rail
25 network to be constructed in phases between now and

1 2030. Thank you for your valuable contributions at the
2 June 2010 and May 2012 San Francisco conferences.

3 On the subject of communication and outreach, it
4 is definitely a challenging issue because we are
5 changing the message that has been ingrained in our
6 American society since the American suburban dream of
7 the '40s and the great American dream of the '60s.

8 As I mentioned before, there's a high-speed rail
9 television series coming online. They also have a video
10 series that's coming online where people will provide
11 testimonies on why they like high-speed rail, and
12 there's a third development in which higher-ups from
13 USHSR will be discussing directly with their staff a
14 little later on this month.

15 With regard to small businesses, one of our big
16 barriers in meeting that 30 percent small business
17 participation goal is primes getting locked into their
18 specific agenda, and I want to encourage the primes to
19 embrace out-of-the-box thinking to see the extraordinary
20 talent that some of the subs have to offer. For
21 example, there may be some innovations with regards to
22 treatment of the right-of-way, for example,
23 shoulderization of the right-of-way where we can get
24 away with not having that oversight. So I really wanted
25 to encourage the synergetic thinking, flexible thinking

1 on the part of the primes so that we can meet those 30
2 percent small business station goals.

3 And finally, I want to encourage us to expand our
4 outreach to the American Society of Civil Engineers. We
5 represent a hundred and I'm sure they would be
6 interested in getting some insight on project financing
7 at their Montreal conference coming up on the 18th
8 through the 20th of October. Thank you.

9 CHAIRMAN RICHARD: Thank you, Mr. Schwagel.

10 Next speaker, Mr. Jack Caswell followed by Ms.
11 Nicole Goehring.

12 MR. CASWELL: Good morning, board members.
13 I have been pursuing a question and a clearly defined
14 set of procedures and rules for the authority over the
15 construction inspection plan review, shop inspection,
16 and environment monitoring procedures and under whose
17 authority those services would answer to. I attended a
18 meeting in Fresno, and I was told by the authority
19 representative there that it would be the responsibility
20 of the developer to provide those services, that I had
21 not seen a clearly defined set of rules where they would
22 send out the notifications for Request For
23 Qualifications, Request For Proposals, and then have a
24 competitive bid process for providing those services to
25 the rail authority or under the developers of authority,

1 and what I'd like to do is get some kind of information.
2 If that QAQC process performance assessment will fall
3 under that authority of the developer, whoever that is,
4 it shows it, or under the rail authority's direction,
5 which would seem logical since you own the
6 responsibility to ensure to the public that quality
7 control assessment meets laws, ordinances, regulations,
8 and standards.

9 Hoped to hear some clearly defined sets of rules.
10 Thank you very much.

11 CHAIRMAN RICHARD: Thank you, sir. I'm
12 going ask Mr. Trujillo, who works directly for
13 Mr. Morales, to seek you out and see if we can help you
14 get information here.

15 MR. CASWELL: All right. Thank you very
16 much.

17 CHAIRMAN RICHARD: All right. Next Nicole
18 Goehring followed by Frank Oliveira followed by Ross
19 Browning.

20 Ms. Goehring? I hope I pronounced that
21 correctly, G-O-E-H-R-I-N-G.

22 MAN IN AUDIENCE: I think she stepped
23 outside, sir.

24 CHAIRMAN RICHARD: All right. If she comes
25 back, would you just have her see the staff here. Okay.

1 If she's still here during public comment period.

2 Next will be Frank Oliveira followed by Ross
3 Browning followed by our last card.

4 Good morning, Mr. Oliveira.

5 MR. OLIVEIRA: Good morning. As you know,
6 my name is Frank Oliveira. I'm representing Citizens
7 for California High-Speed Rail Accountability.

8 Mr. Hartnett, Mr. Umberg, Mr. Morales,
9 Mr. Richard, Mr. Richards, and Ms. Schenk, we all have
10 talked about due process. Every time I have shown up
11 here, I have been talking about due process. Due
12 process, under the law, is important. The California
13 highway -- the California High-Speed Rail Authority is
14 required to follow the law. You have to comply with
15 CEQA, processing, and NEVA and EPA processing. You've
16 entered into a 90-day review period, comment and review
17 period, which sets some deadlines here in motion. We
18 have asked for information, but 14,000 pages of
19 information is missing. They're the technical reports
20 that support the assumptions that were made in 4,800
21 page Volumes I and II and III that were released to the
22 public. For us to effectively review this project and
23 understand the assumptions that the authority has made
24 in this project, we have to be able to review those
25 technical reports.

1 Volumes I, II, and III reference over and over
2 different technical reports. They are available on your
3 website if you have a high-speed internet connection.
4 The common person should not be required to have a
5 high-speed internet connection to participate in this
6 project. You need to release the 14,000 pages so that
7 people can review these documents. They need to be
8 released in languages that are spoken in those areas
9 because we are a multi-cultural area. They probably
10 should be released in Spanish also -- English, Spanish,
11 and perhaps Hmong. I implore you folks to withdraw the
12 EIS/EIR, put out all the information you want us to
13 review that we're legally obligated and entitled to
14 have, and start again, and give us 90 days to review all
15 of the documents that we should be reviewing because
16 this is an environmental justice issue. You are
17 required under NEPA and your own policy to carry that
18 out. I provided you a letter stating so. Thank you.

19 CHAIRMAN RICHARD: Thank you, Mr. Oliveira.

20 Ross Browning then Allen Scott.

21 MR. BROWNING: Good morning, members of the
22 board. Mr. Chairman. There is a -- my name is Ross
23 Browning. I'm from Layton, California, Kings County, a
24 small county in the state of California.

25 There is a video out now online, which I was

1 looking at the other day. What it is, is snippets of
2 the properties and we see the line of the train passing
3 through the various things and I had never viewed it
4 from this aspect before. One of the things that stuck
5 in my mind is that this -- looking at this showed the
6 utter and complete devastation of portions of cities,
7 schools, churches, banks, hospitals, police engines,
8 parks -- you name it. I mean, then you get out of the
9 cities and into land, farms, crops, dairies, homes,
10 storage facilities, water waste bodies, fresh water
11 basins, ancient river beds, historic sites, and
12 buildings, railroad crossings, flood plains, irrigation
13 wells, and irrigation systems. All of this stuff is bad
14 enough -- just pales in significance and becomes even
15 more horrific when the effects of overpasses and
16 underpasses are included in this story. The affects of
17 those underpasses and overpasses can multiply the
18 effects I can assure you. Not since the carpet bombing
19 of Europe in World War II has such massive and utter,
20 useless destruction of land and property taken place,
21 and all of this for what end? Just for what end?

22 One of the courses that I had in college, we
23 fought over it quite a bit, but one thing that we did
24 take away from it -- we borrowed it from the medical
25 profession -- and that is, "do no harm." Thank you.

1 CHAIRMAN RICHARD: Thank you, Mr. Browning.

2 Allen Scott.

3 MR. SCOTT: Good morning, members of the
4 board, Mr. Chair.

5 CHAIRMAN RICHARD: Good morning, sir.

6 MR. SCOTT: Last Tuesday, I spoke in
7 Hanford. Mr. Abercrombie, he came up to me afterward, I
8 know the gentleman, and stated I made an error
9 statement. And I said, well, I tend to be very
10 suspicious of anything from -- organizations have told
11 me in terms of problems misinformation like
12 transparency, environmental justice issues, and just in
13 common not following proposition 1-A. What I stated was
14 that in Merced -- and I understand the final EIR and the
15 NOD has been signed, but the rod has not -- and where
16 the station is and where the station is and the service
17 parking is, there's an area on the map -- and I only had
18 one at the time. Now I have three, and they all have
19 your stamp on them -- and it says, "secondary impact
20 area." Well, that secondary impact area is probably one
21 of the most egregious environmental justice state
22 around.

23 I was snickered at, I believe, by Mr. Abercrombie
24 because I was only going by this map. Well, I now have
25 this map and this map. So two of the three maps pretty

1 much take out the housing. So I may have misspoke a
2 tiny bit, but, in actual fact, I was right because
3 whether you take the secondary impact area and you move
4 into that at all, all the construction that's going to
5 go on in this mass area here -- because you only get a
6 station there.

7 Now I know someone is going to say, "Well, we
8 haven't made a decision yet." Here me out. This is out
9 there. They see it, and by the way, I was informed by
10 Mr. Abercrombie when I asked him the question at the end
11 of his telling me I was wrong, and I said, "Bottom line
12 is do you think these people were notified?" And he
13 told me very simply, "You may be right." Well, this is
14 a disadvantage, predominately Hispanic neighborhood that
15 in one of the documents that you guys submitted has zero
16 population. There's 30 homes there. I think this is a
17 major, major issue here and it needs to be resolved and
18 I don't want to get into simple, silly semantics.

19 The bottom line is we got three maps. Two say,
20 "We're going." The third one says, "We're going to
21 build all around you," but you have not made any, any
22 effort to eliminate or provide mitigation to these
23 people or even simple communication, which has been an
24 issue since the last 18 months of this project. Thank
25 you for your time.

1 CHAIRMAN RICHARD: Thank you, Mr. Scott.

2 Ms. Goehring, did you return to the room?

3 MAN IN THE AUDIENCE: She hasn't returned,
4 sir.

5 CHAIRMAN RICHARD: She has not. Well, we're
6 about to close the public comment session. So with
7 that, the public comment session is closed, and we'll
8 move onto the other items on the agenda.

9 First up is the approval of the meeting minutes
10 from the August 2nd meeting.

11 MS. SCHENK: Move for approval.

12 CHAIRMAN RICHARD: It's moved by Vice-Chair
13 Schenk and seconded by Vice-Chair Richards -- oh, I'm
14 sorry. Don't hold your hand up like that at an auction,
15 you may buy --

16 MR. RICHARDS: I would just like to ask
17 that -- I just would like to ask on agenda Item Number
18 2, if it would note that I recused myself and left the
19 room during that portion of the hearing.

20 CHAIRMAN RICHARD: Okay. Can we make that
21 change.

22 MR. FELLENZ: Yes, we can.

23 CHAIRMAN RICHARD: Okay. Okay. Um, I will
24 vote to approve the minutes as well even though I was
25 not at the meeting.

1 So would the secretary please call the roll.

2 MS. REED: Vice-chair Schenk.

3 MS. SCHENK: Yes.

4 MS. REED: Vice-Chair Richards.

5 MR. RICHARDS: Yes.

6 MS. REED: Mr. Umberg.

7 MR. UMBERG: Aye.

8 MS. REED: Mr. Hartnett.

9 MR. HARTNETT: Yes.

10 MS. REED: Chairman Richard.

11 CHAIRMAN RICHARD: Yes.

12 Okay. Item 3 is the industry forum update.

13 Ms. Padilla, Ms. Fonseca.

14 Okay. It's Mr. Padilla. Excuse me. Good
15 morning, sir.

16 MR. PADILLA: Good morning, Chairman
17 Richard, members of the board. Still getting used to
18 this. My name is Robert Padilla with the California
19 High-Speed Rail Authority, small business advocate. I'm
20 here to report on the industry forums that were held. I
21 believe you have this in your packet. This particular
22 one, up here, will be the one held most recently in
23 August.

24 First of all, the purpose of the forums really
25 were to contact and communicate, engage the local

1 communities, the contract community, the industry on
2 some of the contracting opportunities of all of the
3 packages that are coming up. A big portion -- or I
4 should say, a component had to do with advising the
5 community, the contracting community, about the small
6 business policy. We wanted to make sure that we were
7 providing ample access to micro business, certified
8 small business, certified disabled veteran business, and
9 disadvantaged business enterprise business owners. It
10 also provided the opportunity as well to interact with
11 the respective small business and prime contractors, the
12 teams that are forming. Most importantly, I think as
13 well -- or as equally important to us is, again, getting
14 to know the small business partners, the practitioners
15 in that local community who provide technical assistance
16 to the small business community in the Valley.

17 The forum, itself, in Fresno was held at the
18 Save-Mart Center. Its particular structure was -- we
19 opened with the remarks from the authority
20 representatives and local officials, which was followed
21 by very, very comprehensive overview of the project, the
22 procurement process, delivery method, and the schedule
23 of the project. We also presented the small business
24 policy of the authority with clear information advising
25 them about our 30 percent goal, how that would be

1 achieved with certified small business firms, and the
2 certifications that were recognized, and the
3 participation categories that go with all tiers.

4 We're very, very happy to have been joined in
5 this event by many of our resource partners. I'll
6 apologize to anyone on this list who we may have left
7 off, but a strong part of the US Small Business
8 Administration, the Local Fresno District Office, Carlos
9 Mendoza is their Director, Outstanding Champion for
10 Small Business, the US Department of Commerce, the
11 Minority Business Development Agency, the California
12 Department of Veteran Affairs, Stewart McKenzie
13 representing California Department was there handing out
14 information to ensure equal opportunity participation of
15 our certified disabled veteran businesses. We received
16 support from the Department of General Services, who I
17 like to say is the business manager of California
18 departments. They own and regulate -- well, I should
19 say they own and operate the small business program, and
20 we also had a wide amount of support from the
21 department -- California Department of Transportation
22 Caltrans. As you know, they have small business
23 advocates in each of the 12 districts that they
24 represent statewide. We had a lot of support from the
25 City of Fresno. Beth McDonald is the representative --

1 one of the representatives of the City of Fresno who
2 does a lot of work in certifying disadvantaged business
3 enterprises. We also had -- you heard about the
4 speed-dating -- Leeann Eager from the EDC, again, a
5 great supporter of our program there. She does a lot of
6 the -- what I call work "off the scorecard." They don't
7 show up in the score sheet. She just gets it done and
8 supports our effort there.

9 So this particular project -- or this particular
10 forum was August 14th. We had more than six hundred and
11 forty eight folks attending that event representing more
12 than four hundred and 50 small business firms. Again,
13 we included overview of construction Package One, Two,
14 Three, and Four.

15 We'd like to talk briefly about the other events
16 that were held April 12th. We had a request for
17 expression of interest forum held in Los Angeles. More
18 than 1,100 registered guests representing more than nine
19 hundred and sixty three firms. On September 8th, 2011,
20 another entry forum was held at the Save-Mart Center in
21 Fresno with more than 900 registered guests representing
22 seven hundred and fifty-one firms. On May 17th, 2012,
23 the authority hosted Meet the Primes event featuring the
24 short -- the five shortlisted firms at California State
25 University of Bakersfield. We're pleased to have had

1 more than six hundred and fifty representing more than
2 four hundred and eighty-six firms.

3 From these forums, we as staff, we as
4 practitioners, have heard many positive comments from
5 the attendees, from practitioners, business owners, and
6 among them, very, very briefly, applauding the board for
7 its 30 percent small business goal. Again, this is
8 inclusive of the three percent disabled veteran business
9 enterprise and the ten percent disadvantaged business
10 enterprise goal. They were very happy with your board
11 Chief Executive Officer, Jeff Morales, your vision and
12 your leadership.

13 This one does make me blush. They would like to
14 thank you for my appointment, but further, they
15 appreciate the access that we have provided to the five
16 shortlisted firms. This is unusual in some of the
17 transportation construction procurement that they're
18 used to. The fact that we have five shortlisted, we
19 have provided a list and contact information of those
20 five listed with their small business representatives.
21 It does alleviate confusion.

22 So these forums really do go a long way in
23 helping us -- an opportunity to explain how that works.
24 They have been very appreciative and were -- noted that
25 they received emails press release that they felt were,

1 in fact, effective in reaching the small business owners
2 statewide, those of particular interest. And lastly,
3 they were happy with the layout. The program was
4 conducive to engage meaningful dialog with these
5 projective design build teams.

6 Along with that, they were very willing and we
7 welcome comments to what we know to be barriers for
8 small business participation. This is a very short
9 list, abbreviated list, one that, if you look at, is not
10 new to anyone here. These are very, very common very --
11 we know these exist at all levels, at all parts of the
12 state. Access to securing bonding, access to capital,
13 access liability insurance, many cases of final
14 stability. This is a barrier. Workforce selection,
15 develop retention. That's the objective of this
16 project, economic impact for those areas, but statewide
17 and in the Central Valley, we know some of the issues
18 and some of the challenges that these look to address.
19 Nonunion contractor participation, something that we
20 are -- continue to discuss. They look for assistance in
21 business development, marketing. So we talk about
22 no-cost technical assistance to small business owners,
23 whether it's business service or employer service, they
24 exist statewide, and helping them connect with them,
25 bridge the need to the technical assistance is a very,

1 very important part of my job and that is of those
2 practitioners who attend these events.

3 Certification continues to be a very, very
4 challenging issue for some of them. We've, we've done
5 several outreach events. We're looking at a
6 certification workshop in two weeks in Fresno so that we
7 could invite folks. They get there, they sit there at a
8 computer. We actually will have them walk away
9 certified from that two-hour event. This is all
10 hands-on. It's necessary. We're looking at supportive
11 services that will provide that. We partner with the
12 local small business development center. The SDA
13 practitioner, the workforce, the local -- again, all of
14 this to introduce to our small business owners in that
15 area, no wrong door.

16 Prompt payment is an issue. When, in fact, you
17 have these procurements, you're going to see that, but
18 beyond that, they got to get paid, and they got to get
19 paid promptly.

20 So what are our next steps? These are issues
21 that we are going to follow. They thanked us for a lot
22 of the things and said nice things to us. They told us
23 where they needed help, where they need -- where
24 challenges exist, what we can do to facilitate
25 participation. So we're looking at maintaining a strong

1 and transparent communication protocol with all of the
2 stakeholders, interested parties, community, and
3 business owners.

4 We'd like to continue to host more of these entry
5 forums and networking opportunities, proposals of
6 conferences, design-build contracts. Again, partnering
7 with all of our stakeholders, participating chambers and
8 business trade association, I'm happy to report, I have
9 gotten many invitations to attend these events, and I
10 look forward to doing more of them on a regular basis.

11 The website, there's obviously more we can do to
12 communicate, to contact them. Business owners by in
13 large don't have a lot of time to go to a website.
14 They're banking payroll come Friday and to suggest,
15 "Hey, just go to our website," is not always the easiest
16 for them. So when we can provide information then
17 through the website make it simple, make it practical,
18 make it helpful. We'll continue to do that. One of the
19 items this year is to take a look at a small business
20 tool kit, which will give them valuable information to
21 get to satisfying their needs as quickly as possible.
22 For example, how to get certified. One of the most
23 common issues is "I'm certified, now what?" Informing
24 them about the process -- how do I increase the
25 probability of success on bidding on my contract? We do

1 have a couple of power points we're fine-tuning so that
2 it's a step-by-step picture of how exactly we go about
3 doing that.

4 We are currently reviewing a Memorandum of
5 Understanding with the US Public Comment Development
6 Agency. Again, these are practitioners statewide who
7 extend our services and our opportunities. We are
8 looking at the Request For Proposals to select a
9 consultant possibly to provide more business development
10 assistance.

11 And finally, research a possible solution to
12 effectively address these barriers that we have talked
13 about. From my standpoint of view, 30 percent small
14 business goal is something that we are all strongly
15 committed to doing, and I, as well as the staff, our
16 practitioners, our friends, our partners, are looking to
17 be participants in that solution.

18 Thank you. If there are any questions --

19 CHAIRMAN RICHARD: Any questions for
20 Mr. Padilla?

21 Vice-Chair Schenk.

22 MS. SCHENK: Well, thank you. Obviously, I
23 am very pleased to hear the compliments that we
24 received, and I don't want to be a buzz-kill, but was
25 there any negative feedback of which we should be aware?

1 MR. PADILLA: Well, I think -- I don't know
2 that I would say it's negative -- a lot of it has to do
3 with how to go about doing -- participating these
4 contracts. You know, I would love to say, "Yes, put
5 your name down here, we'll call you. We will contract
6 with you." In the case of the five shortlisted firms,
7 helping them to navigate each of the five. That's --

8 MS. SCHENK: So mainly the questions that
9 you talked about.

10 MR. PADILLA: Well, yeah, but, you know,
11 here are five firms who are committed to doing outreach,
12 you know, I have to go to all of them, I have to market
13 all of them to kind of -- because we don't know who's
14 going to be awarded -- that was negative. That was
15 difficult for them to really try to do. But as far as
16 what I did hear, I think they really know we're doing
17 everything we can.

18 MS. SCHENK: Well, good. Thank you very
19 much.

20 CHAIRMAN RICHARD: Thank you. Other
21 questions?

22 Thank you very much, Mr. Padilla. Welcome
23 aboard. Thank you for your work.

24 MR. PADILLA: Thank you.

25 CHAIRMAN RICHARD: Okay. The next item is a

1 presentation on Caltrain, the economic benefits of the
2 Caltrain modernization program and -- Mr. Haveman.

3 MR. HAVEMAN: Mr. Chairman and members of
4 the board, first, let me say thank you for providing me
5 this opportunity to brief all of you on the economic
6 impacts of Caltrain modernization as I did earlier this
7 year.

8 My name is John Haveman. I'm the chief economist
9 of the Bay Area, and we were tasked with looking at the
10 economic impacts of modernizing Caltrain in a couple of
11 different ways that I'll mention in just a minute.
12 First, let me almost back up and just talk about the
13 system for a second.

14 As you are all aware I'm sure, it's a system that
15 runs through 17 cities, three counties, serves a
16 population of approximately three million residents
17 along the peninsula and Bay Area, currently provides
18 over 40,000 daily trips for folks, and we heard earlier
19 that that number is now approaching 50,000 in the
20 vitally important high technology corridor of
21 California, arguably the most economically -- the
22 fastest recovering economy in the Bay Area.

23 Okay. So what's the project, Caltrain
24 modernization. Caltrain modernization is made up of
25 three different pieces. All right. The first is

1 getting new trains, electric trains, the electric
2 trains. The second is the overhead contact system that
3 will allow those electric trains to run on a system,
4 which is now followed by locomotive, and third is
5 installation of the positive train control system, a
6 more modern signaling and train control system that will
7 increase in efficiency and capacity of the system
8 overall, and we looked at each of those pieces.
9 Although they all are for the electric multiple unit
10 train system less so because we went under the
11 assumption that trains will not be manufactured in
12 California. The benefits that I mention here are lower
13 than would be the case, in fact, if those EMUs were to
14 be manufactured in the State of California.

15 All right. So the modernization will lead to an
16 operating Caltrain system, leading to trains that will
17 look much like this with overhead wires, as you can see
18 in the pictures.

19 So the cost of the project is broken down into
20 three different pieces. One is the electrification of
21 the infrastructure, \$785 million. The advanced
22 signaling system is another \$231 million, and the EMU
23 trains including a bunch of professional services
24 regarding installation locally amounts to about \$440
25 million. In total \$1.456 billion.

1 The economic benefits are derived from three
2 different pieces. The first is the local jobs and
3 economic activities that will improve during the
4 construction, during the installation of the advanced
5 signaling and the overhead electrical system. The
6 second is changes in real property values for those who
7 live in close proximity to the station. By being able
8 to access a faster, more efficient, more frequent
9 service, real property values will, in fact, be enhanced
10 significantly in those areas. Third, is the economic
11 value associated with improved service. As I mentioned,
12 there are some 40,000, 50,000 people who ride the
13 trains. If you increased the speed with which the train
14 is carrying these folks, they, in fact, over the course
15 of the 30-year useful life of the upgrade, will
16 experience fairly significant amount of benefits.

17 First, the construction. Well, construction is
18 underway. About 1.1 billion of that 1.456 will be spent
19 in the Bay Area. So the resulting impact of that 1.1
20 billion adding construction benefits is approximately 45
21 hundred FTE job years in the construction sector alone.
22 So these are 45 hundred -- not jobs necessarily --
23 created in the economy but the equivalent over the
24 course in the project. And it is in the construction
25 sector, which is -- that was very heavily hit by the

1 recession that we experienced. There's some 50 to 60
2 thousand unemployed construction workers in the Bay Area
3 alone, so it would also create almost 96 hundred
4 full-time equivalent jobs in total. So that's another
5 5,000 jobs in addition to those primarily in
6 construction. In addition to economic output, GDP
7 essentially for California is \$951 million.

8 The secondary of positive benefit is in property
9 value impacts. As I mentioned, those who live in close
10 proximity to the stations will experience significant
11 increase in value to their properties. That increase in
12 value of the property comes primarily from the enhanced
13 service in the form of faster and more frequent service
14 for those living in these neighborhoods. In addition,
15 environmental factors, such as improved air quality,
16 fewer vibrations, less noise because of the switch from
17 diesel. Another benefit is the increase in property
18 values will also have an effect on overall property tax
19 collections. We estimated property tax collections over
20 the course of 30 years will increase by approximately
21 \$76 million. So the total value of the Caltrain
22 Modernization Program resulting from increased property
23 values is nearly \$1 billion, 904.5.

24 So the total impact of the overall economic
25 benefits are up 2.5 billion. We employed a variety of

1 assumptions, the vast majority of which were extremely
2 conservative with respect to the leading economic
3 benefit. Some assumptions, a five minute increase in
4 service would lead to an economic benefit a little under
5 2 billion. If it was ten minutes over the span of the
6 system benefits would be up to 2.5 billion. The 96
7 hundred full-time equivalent job years are not dependent
8 on the increase in quality of service. They just depend
9 on construction. Property values located near the
10 system, about a billion dollars. Benefits to riders
11 that I alluded to earlier would reach about \$371
12 million, time savings to riders over the course of the
13 years. Increased in property tax revenues by up to \$59
14 billion -- um, million and generating about \$71 million
15 in State and local taxes.

16 Other benefits that we did not quantify included
17 environmental reduction in greenhouse gas emissions and
18 the second being the electrification. Modernization
19 increases the ridership capacity of the overall system.
20 Ridership is now in the 40 to 50 thousand rider range.
21 It's anticipated that ridership will be up in the 75,000
22 range by the end of the next twenty to thirty years and
23 modernizing the system will help to achieve and supply
24 that service.

25 Third, the improved service will, in fact,

1 attract more riders and increase revenue and pull people
2 off of the streets, reducing congestion in a very
3 congested area.

4 Finally, increased demand for transit-oriented
5 development near the station is very likely to occur,
6 which is very important for development going forward.

7 Finally, I'll just say the modernization of
8 Caltrain system into the modern era, in which it's now
9 functioning, which is more consistent with the
10 transportation to and in the Bay Area through
11 California. So that's what I have. I want to thank you
12 very much for your time, and I will be happy to answer
13 any questions that you might have.

14 MR. RICHARDS: Thank you, sir.

15 Any questions for Dr. Haveman?

16 MR. HARTNETT: Dr. Haveman, thank you. I
17 just really want to comment that I have had an
18 opportunity to previously see this study, and it's very
19 well done. I agree with you that the assumptions are
20 conservative, but it demonstrates the real effect of the
21 system and what it means, direct and indirect. So I
22 think that this is a great goal. If you look at
23 Caltrain modernization issues, but if you look at the
24 investment of transit transportation dollars, so thank
25 you for doing the study. It's an important part of our

1 understanding of the impacts, the investments that
2 California is making.

3 MR. HAVEMAN: Thank you very much. I
4 appreciate it.

5 MR. RICHARDS: Thank you, Dr. Haveman, very
6 much for being here and doing your presentation.

7 DR. HAVEMAN: Thank you, sir.

8 MR. RICHARDS: We'll move onto Agenda Item
9 Number 5, which is the Agricultural Impacts Process
10 Presentation by Bill BOHN.

11 MR. BOHN: Good morning, Mr. Vice-Chair, Mr.
12 Chairman, board members, Mr. Morales. My name is Bart
13 Bohn, and I work for the regional consultants outreach
14 team for the segment section of the project from Fresno
15 to Bakersfield, and I'm here today to talk about our
16 efforts in ag outreach. I'm joined today by other
17 members of the outreach team. Mr. Craig is here and
18 he's worked with Mr. Blinds, Mike Blinds, and a member
19 of your staff has been particularly helpful. Patricia
20 Jones has helped us with the outreach effort as well as
21 our consultants in this public meeting, and they are
22 also represented here today.

23 As you know, agriculture is a vital part of the
24 San Joaquin Valley. This is a very different picture
25 than the one you had in the previous item talking about

1 an urban setting. In the rural setting, we have the two
2 top-producing agricultural counties in the nation along
3 our alignment. Like State Route 99, I-5, and other
4 major projects, high-speed rail project touches hundreds
5 of agricultural parcels, and that's really the focus of
6 our talk today.

7 While land values may be generally higher in the
8 cities, agricultural land acquisition -- agricultural
9 land acquisition usually involves significant
10 considerations and substantial infrastructure. In my
11 experience with Caltrans, it turns out that those last
12 two items, those operational considerations and the
13 substantial infrastructure that needed to be modified or
14 replaced or removed or accessed, those things often are
15 more costly than actually buying the land in the rural
16 areas.

17 Our current outreach strategy has been to make
18 formal presentations to the public, to use boards, to
19 use power point presentations, and we have been focused
20 on property owner rights and benefits, legal basis to
21 eminent domain, the key steps in the right-of-way
22 process, the evaluation process, and process milestones.
23 We have generally not used real examples or graphic
24 examples of impacts or possible outcomes.

25 So what happens in the public meeting is as soon

1 as we have finished our presentation, property owners
2 herd us over to the maps and point to the map, and they
3 would like to see actually what happens to their land.
4 What are the issues; what are the considerations; what
5 are the features, and we go into a one-on-one discussion
6 at length in many cases talking about those, those
7 issues.

8 I want to talk about a recommended outreach
9 strategy. The first point is we're going to continue
10 much of the effort that we have been pursuing. We'll
11 continue to provide accurate information and CEQA ways
12 to reduce uncertainty with enhanced outreach, and
13 uncertainty is the major factor that we probably deal
14 with in this case.

15 We will continue to discuss property owner rights
16 and benefits and land acquisition process in our
17 presentations. We'll continue to stress the point that
18 each land acquisition action is unique and can only be
19 resolved through an interactive process through the
20 property owner and the right-of-way agent.

21 Now, this is really important because at this
22 point, you can't go in at a public meeting with
23 engineers, with right-of-way agents, with outreach
24 people there, and you can't come to a final conclusion
25 as to what might happen to someone's property or what

1 the value might be. This has to await this interactive
2 process that occurs after selection of an alignment.

3 And much of it is based on a decision that the property
4 owner, himself or herself, must make in terms of what
5 their options and which options they intend to choose.

6 So what's new today? Well, we'd like to present
7 to you a program by which we would develop and present
8 graphical examples of typical agricultural land
9 acquisition scenarios and a reasonable range of possible
10 outcomes, and there is a range because nothing will be
11 definite until that interactive process occurs, and then
12 we'd like to take that to groups in the agricultural
13 community, farm bureaus, industry groups, and other
14 groups to, to discuss those things.

15 A few areas of key impacts, access. We have
16 access from farm facilities; access from farm facilities
17 to public roads; we have access between sections of a
18 property owner's farm; and we have access by emergency
19 and school vehicles. We have wells. Wells, in some
20 cases, are on our alignment. They're within the
21 footprint, and they need to be replaced. Irrigation
22 systems are everywhere. They're two levels of
23 irrigation systems that we deal with. One is the
24 wholesale storage and delivery of water across the
25 Valley, and we deal with dozens of irrigation districts,

1 water supply districts, dish companies, conservation
2 districts, that sort of thing. They run the major
3 distribution system that moves the water to each
4 property. That system has largely been addressed in the
5 design work today showing how those canals and dishes
6 will cross our alignment, which canals will be
7 realigned, that sort of thing.

8 Second part of that is what happens to the
9 individual property owners' irrigation system. Every
10 parcel, virtually, has it's own separate irrigation
11 system. We will impact many of those at that level, and
12 again, that's the subject that will be handled in this
13 negotiation between the right-of-way agent and each
14 individual property owner.

15 And then there's viability of parcels. We'll
16 have remnants; we'll have parcels that are bisected, and
17 each of those will have to be discussed individually.
18 Now, there's several principles that we want to follow
19 in this process. Let me touch on them very quickly.

20 One, we're going to comply with all of the laws
21 and the rules and the regulations that are associated
22 with the right-of-way process, and they are extensive.
23 We intend to make sure the implementation of mitigation
24 measures and design features that are listed in the
25 EIR/EIS are certainly carried out. We intend to -- we

1 will be consistent with the practices of Caltrans and
2 other public entities in terms of the way the
3 right-of-way actions and land acquisitions are handled.
4 The outcomes, as I said, many times already will be
5 based on those negotiations between the property owner
6 and the right-of-way agent, and, again, many property
7 owner decisions are associated with that negotiation.
8 We also want to be proficient in two other areas we
9 think are very important in working with the ag
10 community, and they involve understanding of the
11 agricultural operations and utilizing local knowledge
12 and expertise.

13 Okay. Let's get on the graphical examples. I'll
14 show you three slides. First, I'll show you a typical
15 scene in a rural agricultural area without the project
16 before the project comes along. Talk a little bit about
17 some of the features on that slide. Then we'll go on
18 and we'll apply the high-speed train footprint across
19 this scenario and add an over crossing footprint to show
20 you some of the factors that we deal with in some cases,
21 and finally, we'll talk a little bit about the
22 complexities of multiple owners in a particular area.

23 This first slide is the slide without a project,
24 and basically, it's a very, very simplified slide that
25 shows a mix of fields, of parcels, different sizes,

1 different crops, orchards, vineyards, row crops. It
2 shows some buildings and symbols that look like arrows
3 are there to represent homes and buildings out in this
4 area, and we show part of an irrigation system in the
5 lower left-hand corner.

6 MS. SCHENK: What are the circles?

7 MR. BOHN: The circles would represent rows
8 of trees in an orchard. It could be almonds, it could
9 be anything, just to tend to represent that those are
10 row crops, and they have special requirements in terms
11 of access.

12 The other feature here on the right side going up
13 and down is the typical county road out in ag land.
14 Now, the thing you'll notice about this particular
15 scenario is that everything is rectangular. It's
16 north/south, east/west. This is the easiest situation.
17 It's the most common situation where the boundaries of
18 the parcels are defined by the section lines. Section
19 lines appear at every one mile, one-mile spacing, and
20 those sections -- and you might think of that large
21 square that takes up most of this slide as a section,
22 640 acres, is often divided to quarter sections and then
23 further divided into fields of twenty acres, forty
24 acres, sixty acres, or eighty acres, and this is the
25 kind of situation that we deal with. There's no scale

1 on this, and we're going to talk -- and in this one has
2 been simplified so that we have taken out the fact of
3 the meandering canal, which complicates a lot of things.
4 So we try to make it fairly simple.

5 Okay. Now, I'm going to move on, and I want to
6 apply the footprint of the high-speed train project and
7 the footprint of an over crossing. The high-speed train
8 project, double-tracked right-of-away at grade, cuts
9 across this area diagonally. Now, the best situation we
10 know when around in rural areas is that we can locate
11 our alignment adjacent to an existing freight railroad
12 on a long, straight stretch and stay with it as much as
13 possible. This provides the -- really creates the least
14 impact. Unfortunately, eventually, we get forced off of
15 that alignment because of other features we want to
16 avoid or sharper curves in the existing freight rail.

17 The second option that's best is to stay on a
18 section line or parallel to section lines, whether it's
19 east/west coming across the Valley or north/south
20 heading down the Valley. And, again, you can see that
21 if the alignment were on one of those section lines,
22 then the land acquired in each parcel would be fairly
23 uniform, rectangle or a long strip or that sort of
24 thing, that tends to do less -- have less impacts.

25 We also have less impact if we're away from

1 existing state highways and county roads because that
2 causes all kinds of roadway design configurations to get
3 people -- not only up and over the alignment -- but also
4 to the -- to the, the road that is going over the top of
5 the alignment.

6 So the diagonal crossing, here, is probably the
7 most challenging case we have when we go through the ag
8 land. Without pointing out specifics, you can see many
9 places where we have small triangles that get cut out of
10 the field. There's several things that can be done with
11 those. We have explained to the ag community that many
12 of those small remnants could be used by the project,
13 power stations, for communication sites, or even storm
14 water retention basins. In other cases, the original
15 owner may want to keep them because he or she has
16 adjacent land and incorporate it into their existing
17 agricultural operations. In another case, if the
18 existing owner isn't interested in being able to use
19 that remnant parcel, then it would be sold off as a
20 remnant to existing other property owners in the area,
21 who can incorporate it into their farms, and we see
22 several cases here.

23 Access from the sites shown as building sites on
24 this map could include having to buy land or access
25 roads if we land lock a home or farm operation or an

1 easement to get out to the public roads and -- but in
2 any case, we're never going to leave a property owner
3 with their property land locked. Sometimes we have to
4 get around our high-speed train alignment; sometimes we
5 have to get around the embankment that you see here
6 shown as kind of a brownish footprint that carries the
7 county road up and over the high-speed rail system.

8 Access also involves outer direction travel. In
9 this scenario, it's no longer easy to travel north/south
10 from field to field. If you cross the high-speed train
11 alignment, you are in many cases forced to go to the
12 nearest grade separation and over the alignment. This
13 introduces the issue, potential issue, of creating in
14 some cases very specific agricultural crossings for use
15 by private property owners when justified, when the
16 outer direction travel is extensive or when there are
17 large holdings or when we separate a large part of the
18 operational part of the farm from a lot of the fields.
19 So many, many different cases, many examples to deal
20 with.

21 Irrigation systems, while they're not shown here,
22 every parcel generally has its own unique irrigation
23 system. If you hit a well, we're going to replace the
24 well. Other systems can be routed underneath our
25 alignment. If the well is not hit in this case, it's

1 still able to function, we can route that -- the pipes
2 and stuff -- under our alignment, and we can route the
3 ditches and canals and stuff under our alignment, but
4 there is an irrigation system in every one of those
5 parcels.

6 Any questions with this slide before we finish up
7 here. Questions?

8 CHAIRMAN RICHARD: You're doing well,
9 Mr. BOHN.

10 MR. BOHN: Thank you. The last slide I'm
11 going to show you just introduces the complexity of
12 multiple owners, and the right-of-way agents who I've
13 worked with extensively in the past indicate that the
14 final resolution may involve multiple owners. It may be
15 that Owner One works out a deal with Owner Two to sort
16 out swapping land or selling land or buying land to
17 reconfigure his or her farm. Property Owner Three may
18 work out a deal to buy land that is land locked from
19 property Owner One, and, again, that's all part of that
20 interactive negotiation process that will occur between
21 right-of-way agents and each individual owner, and
22 that's why I say that there are many decisions an owner
23 has to make in this process to resolve what actually
24 turns out to be the final solution.

25 And with that, that concludes the presentation.

1 Do we have any questions?

2 CHAIRMAN RICHARD: Before I turn to my
3 colleagues for questions, I want to say, Mr. Bohn, that
4 I certainly appreciate this effort. I want to
5 congratulate you and also Mr. Morales and his team. No
6 one is going to pretend that at the end of the day, we
7 can build a system like this that is not going to have
8 impacts, but as I have traveled through the Valley, one
9 of the big problems that we have had is just the
10 tremendous level of uncertainty people have about the
11 potential impacts on their system. First day I met
12 Mr. Oliveira he just kept asking a question, which I
13 couldn't answer, which was, "How am I going to work both
14 sides of my orchards if you come through here?" And I
15 think that what you pointed out is very important that
16 we're not able to answer specific questions about
17 specific parcels of land until we have the completion of
18 the environmental process.

19 What you're endeavoring to do here is to at least
20 try to reduce some of the uncertainty in questions that
21 people have. I think my sense of the Valley right now
22 is that growers just can't even imagine whether we can
23 understand they're irrigation systems or how we can
24 replace them. So I think that trying to indicate that
25 this is very much in our mind, that it can be done and

1 will be done.

2 Again, the specifics for each parcel have to
3 await the completion of the environmental process, but
4 this is an important effort of respecting the public's
5 concerns by reaching out to them and showing that we're
6 thinking about different hypothetical situations that
7 will ultimately lead to specific resolutions.

8 I think my only comment on this is I recall
9 reading on the article that Tim Sheehan wrote about his
10 travels to Europe to look at high-speed rail systems
11 there to talk about some of the impacts and the way that
12 they have been handled along the lines of what you're
13 talking about today, private access, underpasses through
14 the system, facilitating land swaps and so forth. So I
15 think I would only offer the thought that in addition to
16 these graphical representations without suggesting
17 anybody is going to travel there to take pictures, but
18 if we can prevail on our partnership relationships with
19 the, the European operators to maybe send us some
20 examples. Obviously, our broad regions are different in
21 some respects, but there may be some common places to
22 show people how things have been resolved in places.

23 Again, I'll end where I started, no one is going
24 to pretend that at the end of the day, there aren't
25 going to be some impacts on some businesses and farms.

1 Of course, there will -- I think we can work with people
2 to give them a better understanding of what the possible
3 outcomes are. It's a very important effort, so I
4 appreciate your work and that of your team.

5 Sorry to start with that discourse, but I thought
6 that was important to get on the record.

7 Mr. Morales, do you want to add something?

8 MR. MORALES: Yes. Following on your point
9 of that issue of uncertainty really is a major reason
10 for having developed this presentation, which will now
11 be available more widely and used in outreach as well as
12 being on our website, and we'll guide discussion with
13 potentially affected property owners.

14 One of the points that Bart made and to
15 reenforce, which I really want to enforce as well is
16 there are established procedures for dealing with these
17 types of issues, and there are real world examples of
18 how they have been dealt with not just in other
19 high-speed rail systems but that these kind of processes
20 are the same ones that Caltrans uses and used in
21 building 99. There are expansions of 99 going on now
22 where these exact same issues are being dealt with. We
23 need to do a better job of getting information to
24 people, but we also need to make sure that they
25 understand that we're not creating new processes here.

1 We're utilizing the same one that they, in many cases,
2 are familiar with or at least the local governments are
3 familiar with.

4 CHAIRMAN RICHARD: And to that end,
5 Vice-Chair Richards reminded me that, Bart, your
6 background includes being a district director in
7 Caltrans, Jeff reminded me of that, and retired Army
8 Corps of Engineers. So I know you're well familiar with
9 this, and we're very pleased to have you on this.

10 MR. BOHN: I was trained by great Caltrans
11 right-of-way agents. So I am not a right-of-way agent.
12 I don't play right-of-way agent, but I was trained by a
13 great right-of-way staff.

14 MR. MORALES: On the point of right-of-way
15 agency and another point that I don't want to gloss over
16 is wherever possible, our priority is retraining locally
17 based right-of-way agents who are familiar with the
18 local community's understanding of the operation there,
19 and that's an important element because we want people
20 who understand the operations. In many cases, they know
21 the actual property owners. There are histories there
22 working with them for these issues.

23 CHAIRMAN RICHARD: Thank you.

24 Questions from my colleagues?

25 Vice-Chair Richards.

1 MR. RICHARDS: Thank you, Mr. Chairman. I
2 would certainly echo your comments. I think what's
3 encouraging is we may not contemplate on the questions
4 at the outset, but it's clear from the presentation,
5 what's been done here. What you're showing is
6 alternatives that we can deal with and what's been done
7 around the world. The fact is there are solutions, and
8 solutions are what I think is encouraging for those
9 people who are being affected by this right-of-way or
10 will be affected by the right-of-way. So your outreach
11 and what you're doing with the right-of-way people,
12 Patricia, and along with what you are your doing, Robert
13 Padilla, on the other side with the people who are going
14 to be staffing the construction of this project, is the
15 right direction for this authority to be going, and I
16 applaud the efforts on both sides. Thank you.

17 CHAIRMAN RICHARD: Thank you.

18 Any other questions? Just watch out for that
19 Schmidt guy. Thank you very much, Mr. Bohn. Appreciate
20 that.

21 Next, also sticking with the issue of the impact
22 of the project on the critical agricultural sector of
23 our state, Mr. Morales has a presentation on the
24 agricultural process.

25 MR. MORALES: Yes. Let me just -- it's

1 really a continuation of the theme here you're looking
2 at the potential impacts in the Valley, on agricultural
3 in the Valley. An agricultural working group was put
4 together over a year ago to look at some of the issues
5 that are most commonly raised about potential impacts on
6 agriculture, and we want an external review of that and
7 be able to go out and provide information, to be able to
8 help answer some questions to people as to what
9 potentially might happen, what might be folklore and
10 mythology, and what might be real. So the group was put
11 together to determine what would be the most common
12 themes and questions that came up and then look into
13 those issues, and we have today the presentation from
14 that group, which, again, Joan has been that chair and
15 it is external to the authority. It's really meant as a
16 resource to the ag communities and the necessity of
17 issues.

18 MR. DIENER: Thank you, Mr. Morales. Thank
19 you, board, for having me. I was hired about a year and
20 a half ago to help bring together a group of people to
21 help answer questions, and I think that Mr. Morales was
22 just talking about a lot of those questions about "what
23 happens to my property" and the type of thing that
24 happens, they want to have somebody that had
25 agricultural background to help articulate that but also

1 bring resources in from the agricultural arena to help
2 answer some of the questions that probably might not
3 necessarily pertain to a normal right-of-way process,
4 things that might happen along that way.

5 So the group was formed. Jeff Abercrombie has
6 been very helpful bringing that group together and folks
7 at URS has really helped a lot, helping us bring
8 together professionals that we need for that.

9 So, anyway, we were formed in 2011 in July, and
10 the purpose was to write some white papers and answer
11 key questions along the way and called upon agricultural
12 organizations associations for peer review of those
13 white papers, which we were solicited. These have been
14 reviewed by the ag working group, the information that
15 has been provided has been used to enhance the white
16 papers. So we reached out to the University of
17 California to private individuals that were involved in
18 various levels. We came down to basically six
19 questions. These are questions that were solicited from
20 the affected people along the alignment. We submitted
21 those questions to us, and we had to basically distill
22 those down into what we found to be about six different
23 areas to talk about and they are -- by no means are they
24 definitive as to a final answer, but they are a good
25 outline from which to build on if there are other things

1 that come up in the right-of-way process, because we do
2 have those specialist available to us to institute what
3 we have done.

4 The goal is to define it. So we did that. We
5 got the resource people from the, like I said,
6 university state extension as well as universities.
7 Basically, Davis, Fresno State. They were two
8 universities where we drew on most of the specialists
9 but also the ag extension service along that way. We
10 entertained the local ag commissioners to bring their
11 input into -- for the department of pesticide
12 regulations because they are the implementers of those
13 rules and regulations throughout agriculture. While
14 they elected not to participate in the committee, they
15 did comment and they did have input. As we went
16 forward, they didn't feel comfortable being part of the
17 committee.

18 So basically the six areas we looked at were bees
19 and pollination, the induced wind impacts, dairy
20 impacts, movement of equipment, as you saw Bart had the
21 scale of the farm that was on the land with four
22 different owners having to move around, irrigation
23 obviously is -- a key issue is how that's going to be
24 handled, and pesticide use, what affect that might have.

25 As I said, they are from different areas. The

1 papers were reviewed after they were written by peer
2 review people from organizations outside of the
3 university as well as the university people. Farm
4 Bureau had purview of all of these papers prior to
5 making comments, and the comments were incorporated as
6 necessary. One of the big questions was, "What happens
7 when high-speed rail comes through and you're
8 pollinating your almonds in the spring time?" And so we
9 found, because we did have interaction with people from
10 Europe and Japan and also engineering on the speed of
11 the wind, that there was two mile an hour at the edge of
12 the right-of-way, and as such, it shouldn't impact that.
13 We found through our research that 12 miles an hour for
14 honeybees is kind of a range where they quit moving
15 around as much, but all of those thing that were
16 impacted would be more of an environmental thing. As
17 you can see in this particular picture, here, honeybees
18 normally are placed in kind of a quiet spot away from
19 high traffic areas, and beehives are usually not placed
20 directly next to the highways or railroads as they are
21 today.

22 One of the questions was the fact that, "What do
23 you do with the wind that comes off of the train?"
24 Well, again, like we said, that due to the engineering,
25 the style of the train being as it's aerodynamic, we're

1 not going to see about two miles an hour at the edge of
2 right-of-way. So that being said, the fact is that the
3 fact that the right-of-way is going to be rock, it
4 shouldn't be a huge issues with the dust, huge issues
5 with the wind, things of that nature.

6 One of the questions was the fact that, "The
7 train goes so fast that they're going to blow the
8 blossoms off of the trees." One of the papers that you
9 can read that we're releasing today -- we contracted one
10 of the manufacturers of the aerodynamics. The spray
11 used to spray the blossoms in the springtime for the
12 pesticides, and the fact is that the wind coming out of
13 the fan on that is a hundred and forty miles an hour,
14 and that doesn't blow the flowers off of the trees. So
15 I guess two miles an hour, we're not doing too bad.
16 Anyway, the minimal dust, all those things have been
17 looked at. These are things that give us a format to go
18 forward with the negotiations.

19 One of the areas that is impacted in the process
20 that obviously depends on, Bart had up on the map,
21 depends where it lands in relationship to the dairy, can
22 have a greater or a lesser impact on that dairy. Quite
23 honestly, each dairy has a unique situation. We look at
24 it from the aspect of noise, the fact that we're dealing
25 with an electric train instead of a diesel engine train,

1 that BNSF currently runs. We're much quieter than that.
2 Looked at behavioral practices. University people
3 commented on that. It's in the white paper. Sudden
4 sounds are of concern. The electromagnetic frequency
5 affected is an issue in that we're far enough away from
6 where the dairy's animals usually are. In the
7 situation, that should not have any major affect, and
8 dairies usually -- are usually in a quite place because
9 cows like to have a constant thing. Quite often, there
10 are common noises of the day going around, and anyway,
11 as you can see, we have looked at that part.

12 One of the other issues that is more common in
13 the whole process is "what do you do about turning
14 around," "how do you have a setback," "what is the true
15 right-of-way necessary for the train in relationship to
16 the husbandry of the day?" And so we have gone through
17 and tried to identify that with people that are involved
18 in the equipment business looking at bridge weights, DOT
19 regulations. As a matter of fact, during regulations in
20 relationship to what's legal to fall down the road
21 within the parameters of Caltrans as well as the United
22 States Department of Transportation, how high they can
23 be, all those things are considered. Having Jeff
24 Abercrombie on there, having been part of the Caltrain
25 engineering team is very helpful because we knew those

1 regulations, very helpful with the input in that part of
2 the deal, so we worked on moving them.

3 The delivery systems and irrigation began as
4 parts of it even as far as the canals companies. This
5 project is going to take a period of time to get put in
6 place. A good lot of these irrigation districts are
7 specific in nature. There's going to be -- have to be
8 specific construction done at the appropriate time when
9 water is not in the system to create the system so that
10 it's not -- goes down the drain of an irrigation system
11 because I -- during the irrigation system or the
12 irrigation run for that. And those are normal things
13 that are accommodated through Caltrans and others who do
14 these kind of construction, and needless to say, we look
15 at these and didn't feel that there were any
16 circumstances different than the normal right-of-way
17 issues that might come from that.

18 As you can see, here, in this particular picture,
19 the turnaround area at the end of the rows on these
20 trees is, in effect, of this right-of-way that belongs
21 to this water district, here, you can see that the
22 irrigation canal was constructed on the contour in the
23 days when they didn't probably have as sophisticated
24 equipment as we do today, and as such, it doesn't go
25 straight. It curves through that orchard. So those

1 accommodations had to be made in the engineering on how
2 the irrigation system worked within this particular
3 almond orchard, and given the light that this is an
4 open-water situation, it also gives you the idea of the
5 issues that come from the BPR, which is mitigation or
6 elimination of drip offsite. So when you're spraying
7 these trees, whether it's herbicides on the ground level
8 or fungicides and insecticides on the tree level, you're
9 not allowed to drip into water source that goes down
10 into the creek to somebody else and affect somebody
11 else's situation, not unlike the delta in California
12 today trying to work through all of those issues. So
13 that is kind of some of the things that we look at in
14 that particular situation.

15 Pesticide use, again, is common on that previous
16 slide because it was a good example. High-speed rail is
17 going to be in the alignment at the right-of-way
18 currently by the train. Obviously, there's some places
19 because, as Bart said, the curvature or engineering
20 doesn't allow the turn to be as high as a turn that
21 would be on a normal, 60 mile an hour train, and at that
22 point, you end up with some new land that gets
23 incorporated into a right-of-way. As such, though,
24 still, there are no conditions that we see that the ag
25 commissioners would be allowing, or anything of that

1 nature, people to do the spraying. Today, limitation is
2 that you're not supposed to spray if the wind is over
3 ten miles an hour, and so all those things being said,
4 proper setback for the right-of-way should compensate
5 for that and the responsibility of the land owner.
6 That's currently there for the highways, the waterways,
7 and the current railroad systems are no different than
8 what happens today with high-speed rail.

9 I'll bring these white papers to the community to
10 review, comment as framework. Obviously, trying to
11 stimulate discussion and are more than willing to make
12 adjustment to those as see fit. Obviously, we have
13 called upon our research partners to help bring these
14 forward, so hopefully we have got an adequate base of
15 research behind them. That doesn't mean that it's an
16 all-inconclusive, but at that point, we think we have a
17 professional presentation here, currently, to help move
18 forward the high-speed rail's mandate of being
19 responsive to the communities that are being affected by
20 this.

21 And with that, I would like to thank you. I
22 would like to thank Jeff Abercrombie and URS for
23 supporting the group that I was a part of and,
24 obviously, the board for supporting all of us in this
25 work.

1 CHAIRMAN RICHARD: Are there any questions?

2 First of all, thank you very much, Mr. Diener.

3 We appreciate your work in this regard. It's very
4 important. I had one or two comments, but let me first
5 turn to my colleagues to see if they have questions.

6 Vice-Chair Richards.

7 MR. RICHARDS: Thank you, Mr. Chairman.

8 Mr. Diener, I appreciate very much the reports. I think
9 you know we have been anxiously awaiting these. I think
10 for people from other parts of the state, these are the
11 issues that you discussed today that many Californians
12 wouldn't have thought of or understood, but those people
13 out in the audience today and those around the state
14 that are involved in agriculture, clearly understand the
15 concerns that are being answered, to some extent, with
16 these reports, and I'm happy with the final comments
17 that you have made, and that is "where do we go from
18 here," and the fact, as I understand it, that you would
19 be looking out for public comment. I assume a lot of
20 that would come from the ag community to question the
21 reports or results that you have identified, but with
22 the ultimate purpose of ensuring that what we are
23 providing to the ag community is accurate information
24 supportable by the research that those you have
25 contacted have provided and acceptable and

1 understandable to the ag community as we work through
2 this process. Thank you very much, John.

3 MR. DIENER: Yeah. Thanks, Tom.

4 I wanted to reiterate, the fact is that we
5 probably had four or five hundred questions. Some of
6 these questions came out of the initial release of the
7 EIR. There were a lot of different people that came,
8 and we kind of boiled down to the six areas. There may
9 be some other areas that need some refinement, but
10 anyway, I do appreciate that.

11 MR. RICHARDS: And I understand the process,
12 do you remain in place as the head of this ag working
13 group? So you will be --

14 MR. DIENER: I am currently contracted.

15 MR. RICHARDS: All right. Thank you. Thank
16 you.

17 Mr. Chairman.

18 CHAIRMAN RICHARD: Other questions?

19 Well, I had a question and then observation. The
20 first question is similar to something I raised before,
21 which is that even though we are in the home, in
22 California, to probably the world's greatest
23 agricultural growing system, we know that high-speed
24 rail systems around the world have gone through some
25 very productive ag lands, and are these conclusions in

1 your white paper consistent, as far as you know,
2 Mr. Diener, with experience in Europe or Asia or other
3 places where high-speed rail is developed?

4 MR Diener: Yeah. We were in contact with
5 the people from Japan, which actually go through a lot
6 of small acreage farmers in the rural areas. I mean, if
7 you would think about it, I suppose -- and I don't know
8 what the right number is -- but probably 90 percent of
9 all high-speed rail is in a pasturable situation and not
10 in an urban situation and, as such, have any number of
11 different areas that we worked with people and
12 information from Spain and from Belgium on the wind.
13 There are several different places that we have looked
14 at and brought that in as part of that.

15 I guess as a farmer, it's fairly interesting in
16 my mind to think, what it would cost to build a new
17 highway system equivalent to haul people and being
18 mindful of the impact on the land and the amount of land
19 being dedicated to the high-speed rail in relationship
20 to what it would cost in land to take out land for
21 another four or five freeways to haul the 50 million
22 that we have in California around. I think we have a
23 far less impact environmentally with the high-speed
24 rail. There are those that don't agree with that, but I
25 think if you really peer into the engineering and

1 dynamics of this, I think we have quite a lot to say in
2 a positive way for what this brings to the Valley, and
3 for that, I thank you.

4 CHAIRMAN RICHARD: Let me just make this
5 observation, and thank you for your work. I'm not a
6 farmer, and I'm not a person who has a backgrounds in
7 agriculture, and so there's a lot to learn for those of
8 us who are decision makers here, and in times that I
9 have been traveling around the Valley, you know, these
10 are questions that do come up, and so I echo what my
11 colleagues have said in terms of the importance of
12 getting this information out there. I just also wanted
13 to let you know that, you know, based on your work,
14 we've been reaching out to our colleagues at the
15 California Department of Food and Agriculture a couple
16 of times now with the secretary, Karen Ross, who is very
17 dedicated, just very skillful administrator. We're
18 continuing this conversations, in fact, today, and one
19 of the things that concerned me is as I tour, in
20 particularly in Kings County, which as you know is right
21 in the middle of the dairy belt, was the issue of
22 re-permitting the waste ponds, loss of permissible dairy
23 cows that result in the land taken, and so forth. We
24 had committed that we would be trying to work on those
25 issues, and, in fact, later today, we're starting first

1 conversations within the administration to look at some
2 type of regulatory issue management around this. So I
3 think in terms of not just the physical impacts of the
4 dairies, which I know in your white paper, you looked
5 at, but we're going to be spending additional time with
6 our colleagues at Food and Ag and also want to research
7 to really try and see if there are regulatory impacts on
8 dairy industry that we can work on.

9 MR. DIENER: Sure. And I'll say this for
10 the dairy industry, is that for the type of agriculture
11 that dairy is in relationship to field crop agriculture
12 or orchard agriculture is that you are dealing with live
13 animals and you have a lot of logistics which are
14 completely different than in a normal course of events
15 of agriculture, because of that, I think that they do
16 merit some special attention. At the committee, we have
17 had long discussions with some of the dairy people that
18 we have had involved in these papers as to what the
19 right way to come at that and obviously, from my
20 perspective, wanted to be fair and equitable to those
21 people, and I think Secretary Ross and others can kind
22 of use some kind of reasonable accommodations

23 CHAIRMAN RICHARD: Great. Well, thank you
24 again, sir. It's very important work -- I'm sorry.
25 Vice-Chair --

1 MS. SCHENK: Thank you. First of all,
2 thanks for this. As an urbanite, my eyes were opened a
3 long time ago by a long-ago colleague Rick Dramager,
4 about the importance of agriculture to California. So I
5 have been aware and exquisitely sensitive to this for
6 many years, and what I want to make sure is that going
7 forward is that you also bring to us some of the
8 knottier issues and what the folks in the Valley are
9 saying to you. I know we get it through my esteemed
10 colleague here, but also, you know, on the ground.

11 MR. DIENER: Sure.

12 MS. SCHENK: The really legitimate and maybe
13 not so legitimate complaints and concerns so that we can
14 enter in process.

15 MR. DIENER: You bet.

16 MS. SCHENK: Thank you.

17 MR. DIENER: Thank you.

18 CHAIRMAN RICHARD: I'm sorry. Were there
19 other questions? Mr. Umberg.

20 MR. UMBERG: Just a quick observation.
21 Excellent presentation, excellent, and I mentioned this
22 to Mr. Morales, my only regret is we're not doing this
23 in Fresno, where local population either could observe
24 and I assume you're going to do that similar kinds of
25 things in Madera?

1 MR. DIENER: I think Jeff is a lead on that.

2 MR. UMBERG: All right. Thank you.

3 MR. MORALES: Mr. Chairman, the papers will
4 now be available on the authority's website, and we will
5 be coordinating an outreach strategy to also make these
6 available.

7 CHAIRMAN RICHARD: Great.

8 MR. DIENER: Thank you again, Mr. Chairman.

9 CHAIRMAN RICHARD: Okay. Next item is Item
10 7, The High-Speed Rail Organization Conflict of Interest
11 Policy.

12 Mr. Fellenz -- oh, it is. I'm sorry

13 MR. MORALES: Mr. Chairman, before Tom
14 starts, I wanted to put this presentation in context. I
15 felt it was important, as we are moving toward major
16 contracts, starting to gather major contracts, that we
17 have a clear policy in place and known abidance to the
18 authority as contracting agency and firms who are
19 interested in participating going forward. And
20 obviously, we have firms who are already on contract.
21 Contracts can be very complicated in many respects in
22 terms of multiple partners on a contract, both large and
23 small, and specialty firms. The purpose of -- one of
24 the purposes of this policy is to make sure that
25 everyone is clear about what their participation on one

1 contract might mean in terms of their eligibility to
2 participate on other contracts so that we do not get
3 into conflict issues. So that's what this presentation
4 is focused on.

5 CHAIRMAN RICHARD: Okay. I know that since
6 we're at that point in the year when baseball teams are
7 driving towards the pennant, and players sometimes will
8 refuse to shave until they win the pennant. I presume
9 then until we actually petition the contractors, Mr.
10 Fellenz --

11 MR. FELLENZ: Mr. Chairman, board members,
12 and Mr. Morales, thanks for giving me the opportunity to
13 present the organizational conflict of interest policy.
14 It's a policy that prescribes ethical standards for
15 those entering into the contracts with the authority.
16 It's a really important policy. It has been in
17 existence for one year. When I first started with the
18 high-speed rail authority, this was being implemented
19 and finalized in September of 2011. So it has been in
20 place, and we have been using it frequently. We have it
21 on our website. We discuss it with those that contract
22 with us. So it's an existing policy, but I guess it
23 took a year for us to formally present it to you.

24 The goals of this policy are integrity,
25 transparency, competitiveness, and fairness. We want to

1 make sure that we present, provide a level playing
2 field, so that competition can take place for our
3 contracts. We wanted to provide this policy so that
4 it's informative for those that are entering into
5 contracts with us so that they know how we look at
6 conflicts of interest, how we would measure those. It
7 also provides guidance. I've given you a copy of this
8 policy itself. As you can see, there's a table in the
9 back. It gives actual examples of situations on ethical
10 organizational conflict of interest and also a table.
11 It can be quite complicated and complex.

12 The way we set up this policy is those that are
13 in contracts with us monitor themselves and they're
14 required to monitor themselves. If they believe there
15 is a conflict or potential conflict, they are to contact
16 the authority and have a discussion about that with us
17 so we can work together to see if there, in fact, is a
18 conflict, potential conflict and if there's a way that
19 we can change the structure of their company in terms of
20 putting mitigation measures that would allow them to
21 continue to be in a contract with us or go into a
22 procurement or either to set up some process where they
23 are allowed to complete.

24 The definition of the conflict of interest is a
25 circumstance where there is some sort of arrangement

1 within the companies that would impair their ability to
2 be impartial in the contract or relationship or create
3 some sort of unfair advantage as compared to other
4 existing companies who have entered into a contract with
5 us or it can also just be a perception of a conflict of
6 interest.

7 As I mentioned, they must disclose the matter to
8 the authority if they think there is a conflict and that
9 requires, includes a statement of facts of
10 circumstances, many of these questions as to whether
11 there's conflict that come to us are in the form of an
12 email, some type of formal letter. They're addressed to
13 me as requested in the policy itself. I, and others
14 with legal back grounds, have taken a look at these. If
15 we find that the facts and circumstances that they
16 presented to us are incomplete or we don't understand
17 all of them, we call them on the phone. We correspond
18 back and forth in writing to try to get a clear picture
19 as to why they believe there might be a conflict. Then
20 we work with them to see if there's a way that we can
21 mitigate the conflict to allow them to continue to
22 complete because the goal here is to create as much
23 competition as available, keep the opportunities for the
24 business sector and private sector open to contracting
25 with us.

1 The contractors' obligations are ongoing. A
2 conflict can occur during a procurement, after a
3 procurement, because of a change of the circumstances,
4 there could be people that they hire or a business
5 relationship that they might enter into that create a
6 conflict that didn't exist when they first appeared with
7 the State.

8 There are -- can be severe consequences if
9 there's a failure to disclose. It might preclude a
10 contractor from participating in a procurement, and it
11 could require the contractor to implement some sort of
12 litigating, or we might be forced to cancel a contract
13 because there is nothing we can do to cure the effect of
14 the conflict that exists. If they become aware of a
15 conflict and fail to disclose it, it could have created
16 unfair competition. At the time of the final
17 procurement, we may decide to terminate that contract.
18 So it can be a serious consequence, so that's why it's
19 important for contractors to continue to monitor and
20 discuss with us if they think there's a conflict.

21 There are three main areas that there are some
22 restrictions. First of all, we have divided our
23 design-build procurements into different sections, which
24 are the same sections that are our environmental
25 documents for purposes of measuring conflicts. So for

1 instance, a contractor or consultant is prohibited from
2 providing services for the design-build contract on the
3 Bakersfield -- Fresno to Bakersfield section if they
4 also provided services from EIR or one of our
5 engineering firms. Another area that we look at is
6 whether they provided environmental services on any
7 particular project section, and if they have, they have
8 to wait until the ROD is complete, which is the federal
9 approval process, which follows the State approval
10 process of the environmental documents. Once that's
11 complete, then they can participate on the design-build
12 team. This is a federal requirement. We don't want to
13 jeopardize the loss of federal funds by not complying
14 with their requirements. That is, there can be no
15 contracts awarded on the design-build until the
16 environmental process is complete.

17 And then finally, there's, there's also a
18 consulting service. Contracts that we look at that are
19 house items, the design-build process, all these
20 conflict of interest evaluations are case-by-case, and
21 we have to get a lot of information as I mentioned from
22 the contractors. We have to understand that some sort
23 of relationship that they may have between their offices
24 because that can also impact our evaluation and we also
25 have to look at the professional responsibility of --

1 they govern engineers. And as I mentioned, in the
2 conflict of interest policy, we have a chart that tries
3 to help them lead through conflict. For instance, this
4 is just part of the chart that shows the project
5 management team and what contracts, they have a table,
6 to enter into and who they can enter into and what is
7 the risk factor, they would work with us.

8 I know Ms. LaCome asked a question earlier about
9 whether our policy is lacking in the ability to appeal,
10 and I had a brief discussion with Mr. Morales. I'm
11 going to take a look at this and consider whether there
12 should be an appeal process, what that might look like.
13 So I'll be looking at that and deciding whether there
14 should be some amendment to the policy with regards to
15 her concern.

16 CHAIRMAN RICHARD: I was -- I'm sorry. I
17 didn't mean to interrupt you. I wanted to comment back
18 to that point.

19 MR. FELLENZ: Any questions?

20 CHAIRMAN RICHARD: I was also talking with
21 Ms. LaCome's comment about appeal, and we need to design
22 a fix here. I think it is important to take a look at
23 that. One thing that came to mind was the possibility
24 that, you know, maybe somebody could issue an appeal to
25 the audit, which could review it and work with the

1 executive director, and if necessary, it would come to
2 the board.

3 I mean, I think a number of people on this board
4 who are attorneys, I mean, generally in that world,
5 conflict of interest can be tolerated if they are
6 disclosed to all parties. And so in our case, if you
7 were willing to say in some extraordinary circumstances,
8 et cetera, et cetera. And so I do think that a good
9 point has been raised there about due process, and so I
10 think I would ask the pleasure of the board if you could
11 take action on this with the direction that staff come
12 back to us if there's no action.

13 MR. FELLENZ: No, there's no action
14 required. This is just a report to show you that it's
15 an existing policy, has been out there for a year.

16 CHAIRMAN RICHARD: Then I think it would be
17 appropriate to ask, Mr. Morales, Mr. Fellenz to return
18 to us to address the question that was raised by Ms.
19 LaCome today.

20 Mr. Hartnett.

21 MR. HARTNETT: Mr. Chairman, in support of
22 your comment but in that regard, I -- I do not think
23 that we should frame in the concept of due process.
24 This isn't really a contractual issue, and so I think we
25 want to be careful about how we word it, and then

1 secondly, I think that a review of a decision could be
2 available, but I think it's important that it be not at
3 an overly bureaucratic process, and so whether it's a
4 review by an audit committee or something similar to
5 that or a committee of the board or other committee of
6 the board, and I think it's important that it be
7 efficient but one in which it's not like an arbitration.
8 It's not like an mediation, which is quite different but
9 it is -- so there's somewhat of an ability to have a
10 check and a balance, but I think we need to be careful
11 how we set it up, if one is set up.

12 CHAIRMAN RICHARD: That's well said and
13 better represented than my comments, and so I certainly
14 would defer to that.

15 MR. FELLENZ: I want to mention also that
16 the Department of General Services approves most of the
17 contracts that we're talking about and that they have an
18 appeal process. So I can even look at that and see and
19 make sure that we don't already have a process in place
20 for all of the contracts that we're talking about here.

21 So she brings up a good point, and I'm going to
22 prepare a response and have it to you at the future
23 date.

24 CHAIRMAN RICHARD: Okay. That's good.

25 Any other questions, comments, suggestions on

1 this?

2 Yes. Mr. Morales.

3 MR. Morales: The language in question is
4 pretty typical language for the contracting agencies to
5 have in place in various respects in regard to managing
6 these contracts, and so I think where we may not have
7 done as good a job as we could is in the principle
8 behind it is that prior to having reached this decision,
9 there would have been discussion with the firm perceived
10 to be in conflict. So there is, you know, a process, if
11 you will, to evaluate that. So what we're really
12 speaking to here is once the determination is made, the
13 authority has the sole discretion then to execute that
14 decision. So if we need to go back and clarify the
15 front end of the process to ensure that there's at least
16 an opportunity for a firm to try to demonstrate that
17 there is not a conflict, we can do that, but I don't
18 think we want to compromise that ability once that
19 determination is made regarding that to make sure that
20 the public is being serviced.

21 CHAIRMAN RICHARD: Agreed. Very good.

22 Thank you, Mr. Fellenz. Anything else on this?

23 MR. FELLENZ: I have the next two.

24 CHAIRMAN RICHARD: Okay. Next is the
25 approval to issue an RFQ for the construction management

1 service coming up.

2 MR. FELLENZ: Yes. This is a request to
3 approve an RFQ for construction management services, so
4 construction management. That construction package goes
5 from the Item 17 up the San Joaquin River through the
6 City of Fresno, and there's going to be a significant
7 amount of work overseeing this design-build contract.
8 We're asking to issue a Request For Qualification to ask
9 for the services from the private sector to help us
10 monitor and provide oversight for the design-build
11 contract. It includes recordkeeping, communications,
12 quality, oversight, the whole list of activities, there.
13 It's going to be a significant amount of work. We
14 estimate the budget for this to be about \$25 to \$50
15 million.

16 CHAIRMAN RICHARD: Excuse me, Mr. Fellenz.
17 One second. So I'm trying to cognisant of time
18 limitations here.

19 Do we have a time limitation here?

20 MS. REED: Here, no.

21 MR. FELLENZ: In the work packet, I've gone
22 into more details of the types of services which would
23 be RFQs that this project manager service we provide,
24 and we want to get them on the board soon, and the
25 reason is because we want them to help us with the

1 evaluation of the R -- of the proposals that are being
2 submitted for Construction Package One and this process
3 brings a lot of expertise with them, and they helped us
4 with the evaluation process in the evaluation of the
5 awards, itself, for the Construction Package Number One
6 but just the technical advice that we can share with
7 those public work or public employees that will be
8 making a decision, evaluation on Construction Package
9 Number One.

10 Are there any questions?

11 CHAIRMAN RICHARD: Yes. Mr. Umberg had a
12 question.

13 MR. UMBERG: Mr. Fellenz, give me some
14 examples of companies that might be bidding on this kind
15 of thing. Are we talking about big acre or big county
16 firm types? Are we talking about construction
17 companies? Are we talking about -- what?

18 MR. FELLENZ: Well, we're actually going to
19 be overseeing two major activities, engineering, the
20 design portion of the design-build contract and the
21 construction part of it. So they would be -- it would
22 probably be a number of different firms coming together,
23 similar to the design-build procurement that we have
24 right now, to provide oversight and testing, quality
25 control, those sort of activities. So we can envision

1 that they would be a number of smaller firms, maybe,
2 joining together to provide these types of services.

3 MR. UMBERG: Engineering firms.

4 MR. FELLENZ: Engineering and construction
5 firms.

6 MR. UMBERG: And construction. And I assume
7 anybody that's qualified to bid on the large
8 construction contract is disqualified from bidding on
9 this?

10 MR. FELLENZ: Yes, because they could not
11 oversee their own work.

12 MR. UMBERG: Right.

13 MR. FELLENZ: Correct. So they have to have
14 that part of the organizational conflict of interest
15 side.

16 MR. UMBERG: Okay.

17 MR. CHAIRMAN: Yes, go ahead.

18 MS. SCHENK: Thank you. I sort of have a
19 feeling that we're the midwives of another bureaucracy
20 here, you know, layer upon layer upon layer, and it is
21 concerning because when we have so many layers, it
22 dissipates responsibility.

23 Can you tell me how we're going to avoid that and
24 how we're going to integrate this so that it is as
25 limited a bureaucracy as possible?

1 CHAIRMAN RICHARD: And maybe I could take a
2 quake stab at this, as I understand it and actually
3 asked Mr. Morales to help also with it, but as you know,
4 we have a contractor permit currently in place, the PMO,
5 Project Manager Oversight, and my understanding is that
6 we could have structured that contract broadly enough to
7 include this kind of construction oversight management,
8 but the decision was made at some point, I think before
9 I was here, to break that out as a more specific,
10 discrete function.

11 So I think this is something that sort of
12 laterally was sort of pieced off that could have been
13 part of the oversight contract that's there now. I'm
14 not an expert in this, but I do know that when I was on
15 the BART board, we were building a design-build project,
16 BART to San Francisco Airport, we did have a
17 construction management function. I think Mr. Richards,
18 who's in the development business, would say that it's
19 pretty customary to have an owners representative or
20 somebody who represents the equity of owners, who's on
21 site and overseeing the actual construction function.

22 So I don't -- I don't know, Ms. Schenk, if that
23 helps.

24 MS. SCHENK: Well, I understand all that,
25 and I was around when they did it, but I'm talking more

1 to the point of how do we make it seem less so that we
2 don't have --

3 CHAIRMAN: People tripping --

4 MS. SCHENK: Exactly. Thank you.

5 CHAIRMAN RICHARD: Well, with that, I'll
6 turn it to the people who run the staff.

7 MR. MORALES: I guess "trust us" isn't the
8 answer.

9 MS. SCHENK: Trust but verify.

10 MR. MORALES: Several things, as was just
11 noted, these services could have been potentially
12 included in one of the other contracts. The decision
13 was made to split them out. That does create another
14 reporting mechanism, if you will, but we'll deal with
15 that in several ways, and, again, this is not unusual.
16 We're not breaking new grounds in doing this.

17 As we build our internal team, the management
18 team, that team will be overseeing. These programs will
19 have direct reporting relationships in -- of the
20 construction manager as well as the existing program
21 management team and the program oversight team. One of
22 these teams is our new risk manager, who is now on
23 board, is looking at and will help us define very
24 clearly is the best structure in order to ensure that we
25 have the right accountability without undue

1 communication in that process. But we are -- we're
2 outlining that process and the report to the legislature
3 is due next month, what our management structure will be
4 for all of these contracts going forward.

5 CHAIRMAN RICHARD: Mr. Hartnett.

6 MR. HARTNETT: Thank you. I had some of the
7 same concerns as Vice-Chair Schenk, and I know how
8 important construction management services can be to
9 projects even on the moderate sides. So that the size
10 of this is, as such it appears, there's no doubt in my
11 mind that the construction management services in the
12 nature that it's outlined in the request to some extent
13 I think some of the services might go beyond what we
14 might expect in other projects. So it's pretty wide
15 range on both services. Also, even with respect to the
16 design build teams, the range of services that they're
17 providing beyond just designing and building, if you
18 looked at your chart, and I think it's important to keep
19 with our emphasis, as Mr. Morales has mentioned and as
20 the Chair has mentioned in previous meetings, that it's
21 important that we have government people, meaning people
22 as employees of the authority, making government
23 decisions and not having consultants making government
24 decision. I know that's a theme that is part of the
25 staffing up of the organization, but I think it's

1 important that the oversight of the construction
2 management services is done by authority employees with
3 clear reporting structure and that that can reach down
4 as well to certain aspects of the work of the
5 design-build team as necessary. Because I do fear
6 that -- I don't want the construction management
7 services folks making decisions that the authority staff
8 ought to be making. Yeah, obviously, there's tons of
9 decisions that they're going to make along the way, and
10 I think we just have to be clear as to what authority
11 the staff -- we have to have sufficient staff, and we
12 have sufficient reporting protocols that are timely.

13 So --

14 CHAIRMAN RICHARD: Let me suggest, hearing
15 the comments that the Vice-Chair and Mr. Hartnett made,
16 the action asked today is to give the staff authority to
17 go out with the RFP I think that -- or RFQ. Excuse me.
18 So I think that they'll probably be an opportunity
19 before any contract would actually be awarded, and I
20 would say it would be advisable for staff, and I know
21 Mr. Morales well enough to know that he will take these
22 comments to heart, so I think that when this comes back
23 before us, that a detailed discussion about how such
24 construction management firm would operate, how it would
25 dovetail with our existing management processes to make

1 sure that the concerns -- I wouldn't say concerns but
2 the cautionary notes and issues raised by our colleagues
3 today -- be fully thought through, and so forth.

4 So I think that would be a very appropriate thing
5 to do before we would actually see the expenditure of
6 public dollars. I know that the board has these
7 questions as addressed by Ms. Schenk.

8 MR. FELLENZ: You're correct, Mr. Chairman.
9 In fact, the board policy requires that this come back
10 to you for approval of the development of the company to
11 provide these services.

12 MR. CHAIRMAN: Okay. Mr. Morales.

13 MR. MORALES: Absolutely, Mr. Chairman.

14 We'll provide a full explanation and description of how
15 that process will work, and we will be accountable in
16 providing those.

17 CHAIRMAN RICHARD: Do we need a motion on
18 this to allow it to move forward?

19 MR. FELLENZ: Yes, please.

20 MR. UMBERG: So moved.

21 CHAIRMAN RICHARD: I'm sorry. It was moved
22 by Mr. Umberg.

23 MR. HARTNETT: Second.

24 CHAIRMAN RICHARD: Seconded by Mr. Hartnett.

25 Please call the roll.

1 MS. REED: Vice-Chair Schenk.

2 MS. SCHENK: Yes.

3 MS. REED: Vice-Chair Richards.

4 MR. RICHARDS: Yes.

5 MS. REED: Mr. Umberg.

6 MR. UMBERG: Yes.

7 MS. REED: Mr. Hartnett.

8 MR. HARTNETT: Yes.

9 MS. REED: Chairman Richard.

10 CHAIRMAN RICHARD: Yes.

11 Okay. Thank you. Last item. Next item on the
12 agenda.

13 MR. FELLENZ: Yes. I have the next item on
14 the agenda, and that's the delegation to the CEO. It is
15 the last item.

16 As you recall, recently, this board delegated to
17 Mr. Morales approval of interagency and cooperative
18 agreements up to \$5 million. There are a number of
19 other agreements and contracts that this authority is
20 going to be entering into because we're ramping up
21 toward construction, and some of these have significant
22 dollar amounts and some have more modest dollar amounts.
23 So I thought it was appropriate to present to you and
24 leave for your decision, a consideration of whether
25 Mr. Morales should have new increased authority, and

1 I've included in your packet today on the 2010 July
2 period, there's a detailed delegation of authority that
3 is shown there. That's to the CEO, and what I'm asking
4 you to focus on is Part A, and the delegation is the
5 procurement piece of it, and I'm suggesting that
6 delegation be changed to allow Mr. Morales to have the
7 authority to approve contracts up to \$5 million. And
8 the reason for this is because there's going to be quite
9 a few more contracts. I think a \$5 million mark is a
10 reasonable amount considering the size of this project,
11 the complexity, and the number of contracts that we are
12 entering into. It does preclude Mr. Morales from
13 presenting to you contracts under that value if he
14 thinks it is appropriate to have you weigh in on it or
15 go by.

16 So the types of contracts that we would be
17 entering into, contracts that would be looking into
18 before the board interagency and cooperative agreements
19 that you have given the authority, was also railroad
20 agreements, utility agreements, and then just
21 architectural agreements, professional services
22 agreements, foods and services, some sole source
23 agreements that will be required from time to time. And
24 so a lot of these contracts have to be approved by the
25 Department of General Services. So they also are a

1 piece of our contract approval process, and they're very
2 involved. All the -- in the board resolution that I
3 prepared, there's also a direction to the CEO that all
4 of these procurements will be conducted in accordance
5 with Federal and State laws and regulations and policies
6 and comply with all applicable grant requirements.

7 I might add in the delegation of authority,
8 there's a resolution that I prepared just so it mimics
9 what had been before on the very end of the first page,
10 it says, "The CEO is delegated by the authority to
11 approve and execute changes or amendments to the
12 contract between \$5 and \$10 million."

13 CHAIRMAN RICHARD: I'm sorry. Could you say
14 that again.

15 MR. FELLENZ: "Between \$5 and \$10 million to
16 cumulative increase of 25 percent of the original
17 contract amount," and I noticed in the previous
18 delegation the other words "or \$250,000 whichever is
19 greater" is included there. So if you look at the one
20 from 2010 and you look at C -- A small c Roman numeral
21 III, that's the one I'm focusing on. I'm missing a few
22 words and those would be "or two million five hundred
23 thousand whichever is greater."

24 CHAIRMAN RICHARD: Okay. Tom, you lost me.
25 Why don't you refer to them by resolution number?

1 MR. FELLENZ: If you look at the resolution
2 that you -- resolution 12-24, the one that you're voting
3 on today.

4 CHAIRMAN RICHARD: Right.

5 MR. FELLENZ: If you look at the last few
6 lines, and you compare that to the one from 2010, which
7 is A --

8 CHAIRMAN RICHARD: Wait a second. Before
9 you go on, you say "the last few lines," this is on
10 12-24, so this is the High-Speed Rail --

11 MR. FELLENZ: Delegated, right. Uh-huh.

12 CHAIRMAN RICHARD: Any changes or amendments
13 between five and ten to community increase of 25 percent
14 of the original contract amendment.

15 MR. FELLENZ: Okay. After that comma, if
16 you add the words "or \$250 thousand whichever is
17 greater," it now matches the old delegation. I'm just
18 missing those words "or \$250 thousand."

19 CHAIRMAN RICHARD: So you intended to carry
20 over that language and missed a couple words and the
21 words essentially would put a numeric value in there "or
22 \$250,000 whichever is greater."

23 MR. FELLENZ: Right. Correct.

24 CHAIRMAN RICHARD: All right. I have two
25 comments, but before we get to that, my colleague,

1 Mr. Umberg.

2 MR. UMBERG: Thank you, Mr. Fellenz, and I'm
3 aware that EGS and Department of Personnel have a very
4 challenging and some would call painful process that
5 doesn't provide Mr. Morales completely unfettered
6 discretion. Having said that, though, I think it is
7 important that he have discretion given the magnitude of
8 this project but the question, and this is to both of
9 you, Mr. Morales, is how onerous would it be for us to
10 get a report as to all contracts above, whatever it may
11 be, say \$1,000, every board meeting?

12 MR. FELLENZ: Oh, we could report that.

13 That wouldn't be a problem.

14 MR. UMBERG: I think that would be useful for
15 us, and \$10,000, whatever it may be, I suppose we need a
16 figure to amend this, and I'll pick a figure, \$10,000.
17 All contracts above \$10,000 in our packet each meeting
18 that we need a report as to those contracts.

19 CHAIRMAN RICHARD: Okay.

20 MR. MORALES: I think to clarify it would be
21 either new contracts or contract modifications.

22 MR. UMBERG: Exactly.

23 MR. MORALES: At that level.

24 MR. UMBERG: Right.

25 CHAIRMAN RICHARD: Very good. That was

1 actually along the lines of one of my two comments.

2 MR. RICHARDS: That's where I was going,
3 too.

4 CHAIRMAN RICHARD: Okay. So yes, I think we
5 all kind of gravitated towards the notion that there
6 should be a reporting requirement, so thank you,
7 Mr. Umberg, for that.

8 I would just add one other small suggestive
9 modification, and that is that we exempt from this
10 delegation authority any contracts or amendments of any
11 amendments with Mr. Morales' former employer only
12 because that has been very public discourse, and I don't
13 know that we even anticipate it, it just seems to me
14 that that would make sense.

15 So then that sounds like three changes to the
16 resolution. The first one is to pick up the language
17 that you talked about.

18 MR. FELLENZ: Right.

19 CHAIRMAN RICHARD: Of the "an amount not to
20 exceed \$250 thousand whichever is greater."

21 The second would be to add a provision suggested
22 by Mr. Umberg that the Executive Director will report to
23 the board a list of all new contracts or contract
24 amendments exceeding \$10,000 in value, and the third
25 would be just a provision that the foregoing delegation

1 of authority does not apply to any contracts with
2 Mr. Morales' immediate former employer.

3 Anybody have any thoughts or improvements on
4 that? Mr. Hartnett?

5 MR. HARTNETT: I agree with those. I
6 guess -- I know this goes without saying and probably
7 the administrative review has something to do with it,
8 but the expenditures that are committed would have to be
9 within our budget, and so it's areas in which we have
10 already approved I think. So it's -- this is not
11 unfettered discretion to entered into contracts even
12 though they're reported to us. There is a boundary to
13 it, and so I know we know that but I think it's --

14 CHAIRMAN RICHARD: So if a new Mustang
15 appears in the director's parking with blue and gold
16 trim, that would be highly suspect?

17 MR. HARTNETT: Yes, that would be highly
18 suspect especially, you know, with a customized license
19 plate.

20 CHAIRMAN RICHARD: Okay. Do you want to
21 suggest language on that or do you just want to make a
22 statement for the record?

23 MR. HARTNETT: No, I think I just want to
24 state that for the record.

25 CHAIRMAN RICHARD: Vice-Chair Richards.

1 MR. RICHARDS: I'm just interested in
2 Mr. Morales' reaction to the \$10,000 threshold.

3 MR. MORALES: I think in the context in
4 which it's phrased which is this is a reporting
5 requirement. We track that already. So I don't think
6 it's creating a burden, and it should be shared. So I'm
7 perfectly comfortable.

8 MR. RICHARDS: Thank you.

9 MR. UMBERG: So you are fettered?

10 MR. MORALES: I am fettered.

11 CHAIRMAN RICHARD: So then we need a motion
12 for the resolution as amended.

13 MR. FELLENZ: Yes.

14 MS. SCHENK: So moved.

15 MR. RICHARDS: Second.

16 CHAIRMAN RICHARD: Okay. It's moved by
17 Vice-Chair Schenk. It's seconded by Vice-Chair
18 Richards.

19 Please call the roll.

20 MS. REED: Vice-chair Schenk.

21 MS. SCHENK: Yes.

22 MS. REED: Vice-chair Richards.

23 MR. RICHARDS: Yes.

24 MS. REED: Mr. Umberg.

25 MR. UMBERG: Yes.

1 MS. REED: Mr. Hartnett.

2 MR. HARTNETT: Yes.

3 MS. REED: Chairman Richards.

4 CHAIRMAN RICHARD: Yes.

5 Thanks, Mr. Fellenz.

6 MR. FELLENZ: Thank you.

7 CHAIRMAN RICHARD: We have come to the end
8 of the agenda.

9 Mr. Morales, I know that you had a discussion
10 with me about an item that has customarily appeared in
11 terms of the general managers -- or the executive
12 director's report -- or CEO's report, I should say, and
13 I know you had some thoughts about how you want to
14 proceed, and I thought it would be good for you to share
15 that with us.

16 MR. MORALES: Certainly, I know most people
17 anxiously await the report at the end of the session.
18 We're looking to work with the board to make the board
19 meetings efficient and constructive and productive, and
20 so basically, what we'll be doing going forward is if
21 there are items of sufficient interest, we'll cover
22 those agenda items rather than turning them into a
23 report, or I'll raise the issues during the course of
24 discussion. That's my proposal for that.

25 Having said that, I would like to take just a

1 moment to introduce some of our new staff.

2 CHAIRMAN RICHARD: Yes, I was going to ask
3 you to do that next.

4 MR. MORALES: So I don't miss anyone, I'll
5 ask them to stand. Melissa White, who is our deputy of
6 our external affairs, and Mr. Trujillo, our chief
7 deputy, Diana Gomez, she's our Central Valley Director,
8 Robert Padilla, whom everyone has met. Who am I
9 missing? Robert, Rob Wilcox, our director, Karen
10 Green-Ross who is the deputy legal counsel. Oh, and
11 John Tapping, our risk manager. He's going to be a key
12 part of our construction going forward. So we are
13 making real progress in building up the organization
14 with really talented people. I'm very pleased with that
15 and proud of the folks we've been able to bring on
16 board. I just wanted to make sure everyone was noted.

17 CHAIRMAN RICHARD: Well, thank you for that,
18 and I want to express what I'm sure is the sentiment of
19 the board, to congratulate you on, not only moving
20 swiftly in the wake of the legislative authorization of
21 our expenditures but also with a fine hand for picking
22 talent to bring these folks on. I know that there are
23 one or two key positions left, the CFO and a chief
24 program officer, and I know from discussions with you
25 that you're diligently pursuing these, and with those,

1 we'll really have rounded out the leadership team here
2 at the High-Speed Rail Authority. And since we're
3 embarking on this major construction project, which as
4 the vice-chair so aptly mentioned this morning, is the
5 largest correction project in the history of California,
6 it's really important that we have the top talent
7 working with us, and so the board is cognizant of public
8 commentary that we have been thin at that top ranks,
9 and, Jeff, it's just good to see you step in really
10 quickly and really started to put in top-notch people.
11 So thank you.

12 MR. MORALES: Thank you, Mr. Chair. I would
13 just note, Wendy Williams is not in the room, but she's
14 the chief deputy for admin, and I also do want to just
15 note we are bringing on additional staff at the second
16 and third tiers who get the work done, new-hires and
17 people on loan, that we're bringing on from other
18 agencies. So it is a rounding out of the team to ensure
19 that we can deliver the program.

20 CHAIRMAN RICHARD: Great. Before we
21 adjourn, let me just turn to my colleagues to see if
22 there are any matters that members either want to report
23 on or questions or issues for upcoming board meetings at
24 this point.

25 Well, with that, we thank everybody for

1 today, and I think, again, we'll show that we're
2 adjourning in memory of victims of the 9/11 tragedy.
3 Thank you all very much. The meeting is adjourned.

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5 (Whereupon the proceedings ended at 12:42 p.m.)

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I, Brittany Flores, a Certified Shorthand Reporter of
the State of California, duly authorized to administer
oaths, do hereby certify:

4 That the foregoing proceedings were taken before me
5 at the time and place herein set forth; that any
6 witnesses in the foregoing proceedings, prior to
7 testifying, were duly sworn; that a record of the
8 proceedings was made by me using machine shorthand which
9 was thereafter transcribed under my direction; that the
10 foregoing transcript is a true record of the testimony
11 given.

12 Further, that if the foregoing pertains to the
13 original transcript of a deposition in a Federal Case,
14 before completion of the proceedings, review of the
15 transcript () was () was not requested.

16 I further certify I am neither financially interested
17 in the action nor a relative or employee of any attorney
18 of party to this action.

19 IN WITNESS WHEREOF, I have this date subscribed my
20 name.

22 Dated:

Brittany Flores CSR 13460